

# **National Regulators Within EU Policy Networks: A Case Study of The Norwegian Energy Regulatory Authority (RME)**

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## **FOREWORD**

Writing this master thesis has been an exciting but also a demanding task. Almost a year has passed since I have started to write down my first words, and it is unbelievable to realize that I am now writing my final words. Personal ups and downs intrinsic to any endeavor of this magnitude have been part and parcel of this journey. This project has also been affected by the Covid-19 pandemic, and took some extra time to finalize. I want to use the occasion to thank people who were instrumental in pulling this project through.

First of all, I would like to thank my project supervisor, Jarle Trondal, who shared my enthusiasm for the topic from the beginning. His inspirational ideas and advice during the whole project period have been indispensable.

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A separate thank you to all participants who participated and contributed to this research despite demanding times. And last but not least, I want to thank my family who shared both positive and negative moments with me, and supported me during this project.

## **ABSTRACT**

A growing number of studies indicate that increased incorporation of national regulatory agencies into the multi-level administrative structures of EU transforms existing patterns of administrative behavior in these institutions. In particular, the traditional, more local patterns of behavior seem to be supplemented and/or replaced by the supranational behavioral logics.

This study uses a case of the Norwegian Energy Regulatory Authority (RME) to examine if RME's embeddedness into the EU policy networks affects administrative decision-making within this regulatory agency. By examining role perceptions of RME officials, conceptualized by three role orientations - departmental, professional, and/or supranational, this study tried to understand European integration through the transformative processes happening at the level of individual-decision makers.

The empirical findings suggest that administrative behavior of RME officials are located on the functional expert - bureaucrat dimension, and that it is systematically shaped by the organizational structure. In particular, the horizontal specialization of the RME agency along functional lines wields the strongest effect on the formation of the departmental role among RME officials. Concomitantly, the inter-organizational vertical specialization whereby the RME is structurally separated from the Ministry wields the strongest effect on the formation of the professional/expert role among RME officials. These patterns of behavior epitomize the traditional split between politics and profession and seem to be quite stable and resilient to change.

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## **LIST OF ABBREVIATIONS**

ACER	Agency for the Cooperation of European Energy Regulators
CEER	Council of European Energy Regulators
EEA	European Economic Area
EFTA	European Free Trade Association
ENTSO-E	European Network for Transmission System Operators for Electricity
ENTSO-G	European Network for Transmission System Operators for Gas
ESA	European Surveillance Authority
EU	The European Union
MEP	Ministry of Petroleum and Energy
NordREG	Nordic Energy Regulators
NEM	Regulation of grid operations and energy market
NVE	Norwegian Water Resources and Energy Agency
NRA	National Regulatory Authority
RME	Energy Regulatory Authority
TSO	Transmission System Operator

## CHAPTER ONE: INTRODUCTION

National regulatory authorities (NRAs) play a crucial role in the daily operation of the European Union's system of network governance by providing expertise in policy development and implementation, by linking member state governments and administrations with the EU level and by increasing the acceptance of European laws and programs at the national level (Egeberg 2006). Together with the EU agencies, NRAs introduce innovative regulatory arrangements into the EU network governance due to their significant impact on regulatory outcomes. Stuffed by knowledge-based experts, such agencies are well positioned to 'make a difference by providing technical, scientific and managerial expertise that can underpin new legal initiatives as well as help to implement and monitor existing legislation' (Jevnaker and Saerbeck 2018:61) to guarantee homogenous application of EU legislation.

Following ratification of the EU's Third Energy Market Package into the Norwegian law, a single regulatory authority was created in Norway to handle harmonization of electricity and gas market regulations between EU and Norway. The Norwegian Energy Regulatory Authority (RME)<sup>1</sup> was designated in November 2019 to become part of the European network of energy regulators coordinated by EU Agency for the Cooperation of Energy Regulators (ACER). The creation of RME created a lot of public debate in Norway - a country with a long tradition of public management over energy resources. The critics claim that establishment of RME puts traditional policy making dominated by national ministerial bureaucracies - Ministry of Petroleum and Energy (MEP) and Norwegian Water Resources and Energy Agency (NVE) – in jeopardy, by transferring more and more decision-making powers to the EU-level.

Indeed, a quick literature review provides some evidence to support such claims. Several scholars have indicated that the drive toward harmonization of public policy within EU member and affiliated states challenges national administrative sovereignty, characterized by national political-administrative control over state administration and public governance processes (Trondal and Kuhn, 2019), and rises novel problems of democratic legitimacy and accountability (Majone 2007). In particular, it can be argued that EU's agency system mechanism of close cooperation with national agencies provides EU Commission with necessary tools for direct control over application of EU legislature within member-states and

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<sup>1</sup> RME is the regulatory authority for the turnover of electrical energy and natural gas according to the Energy Act § 2-3 and the Natural Gas Act § 4, cf. the Natural Gas Regulations § 1-4.

affiliated countries. As national regulatory agencies become more and more embedded in EU networks, ministries may find themselves more often ‘bypassed’ when it comes to important policy issues. According to Groenleer (2011:556) ‘networking at the EU level allows national agencies to increase their autonomy vis-à-vis their principals at the national level’. Bach and Ruffing (2013) study concluded that involvement in formal agency networks was positively correlated with increasing levels of policy-development autonomy. This increasingly more salient multi-level embeddedness of national civil servants rises sensitive questions around their individual accountability. Their increasingly ‘double-hatted’ role (Egeberg 2006) as part of both national and European administrations makes it less transparent who these modern public executives work for and to whom they are accountable for.

Given the increasing role and responsibilities that national professional agencies are being delegated in sector specific policy implementation and development, more research is needed into *de facto* operations of these agencies. The inquiry into day-to-day operations of national agencies will allow us to grasp full effects of their creation and design in terms of accountability and control.

### **1.1 Research Question**

The broad aim of this research is to assess how, and to what extent increased incorporation of national agencies into multi-level administrative structures of EU challenge national administrative sovereignty. In particular, the study tries to grasp effects of RME participation in the EU network of energy regulators on established patterns of national policy making and administrative behavior within the agency. In order to answer these broad questions, this research tries to address the following research question(s):

*What characterizes and explains administrative behavior inside RME as an actor embedded in the multi-level administrative structure of EU?*

In the existing literature, the role of agencies and their potential impact have often been derived from their legal competences and formal design features (Chiti 2000 in Busuioc et al 2012). It is often assumed that agencies do what their creators want them to do, and they are expected to develop in ways intended by their creators (Busuioc et al 2012). The administrative behavior of agency officials is generally also associated with and causally explained by their legal status which provides binding instructions and mandates for their actions (Trondal 2010). However, legal mandates may not be sufficient explanatory factors for administrative behavior inside the



agencies. Providing organizational members with only broad guidelines for action, legal mandates may leave significant leeway for organizational members to define and shape their internal routines and roles, and ‘interpret or even reinterpret their basic missions’ (Kiewiet and Mccubbins 1991 in Danielsen and Yesilkagit 2013). Moreover, administrative behavior within agencies embedded into multilevel administrative structures is composed of the multiple complementary institutions, actors, interests, decision-making arenas, values, norms and cleavages (Schmidt 2006 in Trondal 2011). Consequently, agents within these organizations have to attend to and act upon a multidimensional set of at times conflicting roles and identities (Marcussen and Trondal 2011). Administrative behavior within these agencies will ultimately be influenced by how the trade-offs between these diverse behavioral logics are balanced by individual officials (Wilson 1989:327 in Trondal 2010). Hence, in order to understand and capture the real dynamics of an agency’s administrative behavior we need to explore internal dimensions of its life. Studying role perceptions of individual decision-makers and their organizational context can provide valuable insights in this regard. Role perceptions can be a good predictor of administrative behavior as they provide ‘conceptions of reality, standards of assessment, affective ties, and endowments, and thereby with a capacity for purposeful action’ (March and Olsen, 1995:30 in Trondal 2004:10). ‘What people do and how they do it depends upon how they see themselves and their world, and this in turn depends upon the concepts through which they see’ (Pitkin 1972:1 in Trondal 2004:10).

‘Unpacking’ organizational factors, on the other hand, can help us to understand the conditions under which actors form/transform their preferences, roles and identities (Egeberg 2004). There are studies documenting that administrative behavior within organizations can be shaped by organizational structure (Trondal 2007; Trondal 2010; Trondal 2011; Kühn and Trondal 2018; Vestlund 2017). Trondal (2010) has empirically assessed the relationship between bureaucratic structure and administrative behavior within three international bureaucracies – the Commission, OECD Secretariat, and the WTO Secretariat – and concluded that administrative behavior among international civil servants was profoundly shaped by the bureaucratic structures of international bureaucracies in which they participated. Moreover, variation in administrative behavior across and within international bureaucracies were profoundly shaped by (1) the accumulation of relevant administrative capacities at the executive center, and secondly, (2) their horizontal specialization.

There are also studies claiming that behavioral logics of the agents within multi-contextual organizations can be influenced by the international institutions in which they are embedded (Barnett and Finnemore 2004 in Trondal 2010). For example, international bureaucracies that are embedded in intergovernmental IOs are assumed less likely to act independently of their member-states than international bureaucracies within supranational IOs – such as the Commission (Trondal 2010). Yet, another strand of research, stresses socialization and re-socialization potential of institutions (Trondal 2004; Trondal 2007; Hooghe 2005; Egeberg 1999) as the main factor affecting behavioral logics within compound bureaucracies. What all these studies have in common is that they emphasize ‘contextualized and endogenous decision-making behavior, identity and belonging’ (Trondal 2001). They point to the forces that may bias the decision-making behavior of agency officials, eventually biasing the formulation and execution of public policy, and ultimately administrative behavior and decisions (Barnett and Finnemore 2004 in Trondal 2017).

These insights constitute a starting point for this research which aims to study actual administrative practices inside RME by examining role perceptions of individual decision-makers. As pointed out by Christiansen et al (2001 in Trondal 2004:10) ‘studying the roles enacted by actors participating in policymaking structures of the EU is important for understanding European integration through the transformative processes happening at the level of individual-decision makers. However, one has to acknowledge that connection between role perceptions and behavior is not always straightforward. In particular, in contexts where individuals carry multiple roles which can be in conflict with each other, role orientations may be deficient predictors of behavior.

## **1.2 Background**

Since 2009 Integrated EU Energy Market Policy has become a central pillar of the Europeanization project. With its Third Energy package EU aims to achieve ambitious political, regulatory and/or technical demands of the energy policy through a more centralized governance structure. This governance structure consists of slightly hierarchized trans-European network in which independent National Regulatory Authorities (NRAs) and EUs Agency for Cooperation of Energy Regulators (ACER) constitute significant nodes.

At the EU level, networks of national experts have long been seen as the best way to achieve uniformity in policy application and bring about a true ‘community of views and action’

(Dehousse 1997:254). Within these networks, national experts in charge of implementation of Community policies can discuss their experiences and work out common solutions to the problems that emerge in the implementation phase. Thus, networking is seen as a best way to ensure behavioral similarity among national actors. However, networking is not a new phenomenon within ‘European Administrative Space’ (Trondal and Peters 2013 in Joosen and Brandsma 2017:423). For instance, the Nordic power market (Nord Pool) is a regional success story which proved that regional initiatives are well suited to fuse energy markets between EU member states. This bottom-up initiative resulted in the integration of the electricity markets of all Nordic countries (Denmark, Finland, Norway and Sweden). What is new is that since mid-1990s, EU started to institutionalize existing networks of national experts, phenomenon termed in the literature as ‘agencification’. By ‘agencification’ is meant a process at the EU level in which a quickly growing number of EU agencies is being delegated responsibility to administer and bring stability to networks of national experts and officials involved in the implementation of Community policies (Dehousse 1997) in their respective policy areas. To achieve their policy objectives, EU agencies are mandated a wide range of (semi)-regulatory, decision-making, monitoring, and coordination tasks. Networks of national experts facilitate the work of the EU agencies by ensuring that they have access to resources, that the information at the European level is based on equivalent comparable data from the member states, and by encouraging the harmonization of measurement or data comparison methods (Kreher 1997:237). On the other hand, EU agencies provide more administrative capacity for feeding supranational concerns into the decision process, also at the policy formulation stage (Egeberg et al 2009). Overall, ‘agencification’ in the energy policy area could strengthen the EU’s capacity for policy development under the umbrella of the Energy Union.

According to Hix (1998:54 in Jordan 2001:196) ‘via a complex web of networks and quasi-autonomous agencies, the EU is transforming politics and government at the European and national levels into a system of multi-level governance’. This EU-induced form of transnational governance might challenge basic legal and administrative principles of administrative sovereignty underlying relations between member states and the European Commission (Joosen and Brandsma 2017:424). In particular, it seems to undermine basic principles stipulated in Article 189 of EC Treaty stating that implementation of the Community legislation shall be executed by ‘the choice of form and methods’ (Article 189, EC Treaty in Dehousse 1997:248) at the national level. This arrangement, the so-called *indirect implementation*, allows a great deal of national autonomy and control over state administration and public governance

processes within member states but, at the same time, exposes Community policies to considerable influence from national politics and administrative traditions (Dehousse 1997b; Knill 2001; Olsen 2003 in Martens, 2006, 124) which hampers a uniform and effective enforcement of Community legislation.

Egeberg and Trondal (2013) claim that EUs strengthened institutional structure pulls implementation practice towards more *direct implementation*. In particular, strengthening of the executive institutions at the EU level, such as EU-agencies and Commission, with organizational capacity, and supervisory and control mandates over implementation process at national level, facilitates much stronger involvement in policy implementation processes within member states and third countries. ‘Direct implementation severely circumscribes the scope for policy adaptation according to ‘local’ needs because it tends to hamper inputs from the local political bodies (parliaments, ministries) into the implementation process’ (Egeberg et al. 2009:3). Formal and, in many cases, also real administrative independence of national regulatory agencies from national ministries facilitates direct coupling of EU executive institutions to these bodies. As such, when implementing EU legislation at the national level, agencies may be more willing to act on behalf of the Commission or ‘sister agencies’ in other countries rather than according to the objectives and priorities of their respective parent ministries (Egeberg and Trondal 2009; Martens 2006, 2008 in Bach and Ruffing 2013). This makes national agencies in practice to a direct executive authority of the EU legislation within a nation state.

Research examining effects of national agencies’ participation in the EU networks on national administrations and established patterns of policy making has blossomed since 1990s. Some studies have examined how agencies’ participation in European networks affects the relationship between agencies and their parent ministries. Engagement in the European networks of sector specific policy development changes environment of national experts and officials in charge of implementation of EU legislation policies at the national level. By taking part in such networks, national agencies can become more autonomous and empowered in relation to their parent ministries. According to Egeberg (2006:9 in Bach and Ruffing 2013:717) involvement with the trans-European networks allows national agencies to ‘bypass’ their parent ministry because networks provide agencies with an opportunity to directly engage in and influence European policymaking rather than supporting the ministry, as is the case in national policymaking. Indeed, Bach and Ruffing (2013), based on the comprehensive survey covering

all federal agencies in Germany, found that national agencies' involvement in the European networks strengthened their policy development autonomy as a result of 'spill-over effects of a task environment requiring horizontal coordination among expert bodies for effective problem-solving' and limited capacity of parent ministries to control agency activities. They concluded that information asymmetries and remoteness of decision-making exacerbate control problems for the ministries (Bach et al 2015) while at the same time empowers the agency officials. Findings in Danielsen and Yesilkagit (2014) comparative case study of national competition authorities in Norway, Sweden and Netherlands suggest that across all three national competition regimes, the national competition authorities have become strengthened vis-à-vis domestic resort ministries as a function of the institutionalization of the European competition network, where network membership 'extended the structural and organizational leverage of individual authorities, and incorporated them into a larger and more resourceful aggregate actor'. Abraham Newman (2008 in Bach et al 2015) showed that national agencies, by pooling their expertise and administrative resources via a transnational network, have been able to defy their parent ministries and the European Commission when these actors were hesitant to impose regulations on the storage and use of personal data within the EU. Martens (2008:32 in Bach and Ruffing 2013) argues that the processes of 'agencification' in many European countries opened up a 'window of opportunity for a new and transnational role for the regulatory agencies', possibly turning them into a 'run-away bureaucracies.' All these findings suggest that national agencies' involvement in the European networks changes agencies' role in relation to the parent ministry, especially when it comes to policy formulation, thus 'challenging the established division of labor between ministries and agencies and undermining ministries' capacity to control agencies, which is traditionally considered to be the main source of legitimacy of administrative action' (Bach and Ruffing 2013).

Other studies examined the effects of national agencies' network participation on established patterns of behavior and practices within national administrative systems. In particular, the more recent public administration debate within MLA approach directs attention towards changes in the beliefs and role perceptions of national civil servants involved in European networks (Trondal et al. 2010 in Trondal 2017). These studies, rich in surveys of national civil servants active in committees and working groups of the European Commission and the Council of Ministers (Beyers and Trondal 2004; Egeberg 1999; Trondal 2004; Trondal 2007; Kühn and Trondal 2018; Marcussen and Trondal 2011; Hooghe 2005; Scheinman and Field 1972), demonstrate that participation in the European networks has an impact on preference formation

and behavior of national civil servants, and that this impact is largely mediated by organizational and/or socialization factors. Several studies demonstrate that through participation in trans-European policy networks national civil servants are able to supplement local, national role orientations with supranational (cosmopolitan) ones. For instance, in Scheinman and Field's study (1972:133 in Egeberg 1999:1) ten out of twenty-three interviewed national officials sensed that through their community experience they adopted a more 'European' orientation than they had before. In his study of domestic (Swedish and Danish) civil servants embedded in EU committees, Trondal (2004) found that national civil servants attending EU committees supplement pre-existing role perceptions (national and/or sectoral) with supranational roles due to intensity of participation on EU committees.

This study aims to contribute to this second strand of research. In particular, it aims to examine and explain administrative behavior within Norwegian Energy Regulatory Authority, enmeshed into European network of energy regulators, by studying role perceptions of individual decision-makers. The overall goal is to increase knowledge of European integration by studying the transformative processes taking place at the individual level.

### **1.3 Theoretical Perspectives**

To build my argument I use several theoretical contributions. Role theory and insights from recent institutional scholarship are used to build role expectations for RME. Role theory as specific field of social sciences concerns itself with patterns of human conduct – roles; with expectations, identities, and social positions; and with context and social structure as well as with individual response (Biddle 1979). From this theoretical frame of reference, organizations can be understood as systems of interdependent roles, the occupants of which communicate to each other, often implicitly, expectations about 'how to behave' and 'what has to be done' (Lizzio and Wilson 2009:72). Moreover, actors with multiple organizational embeddedness are exposed to several, at times competing, organizational logics and decision-making dynamics, and are therefore expected to develop multiple preferences, roles and identities promoted by these contexts. Taking into consideration organizational context of RME, this study postulates that three role conceptions / behavioral predispositions can be relevant for RME officials – departmental (the bureaucrat), professional (independent expert) and /or supranational (European adviser) role conceptions.

Insights from organization theory as well as social constructivists literature are used to develop theoretical expectations about influence of organizational and social factors on preferences, role and identity formation within RME. Organization theory is founded on the assumption that different organizational factors contribute to the enactment of certain identities, roles and codes of conduct. As such, one can easily alter behavior within an organization by changing the organizational factors, such as organizational structure, organizational affiliation, organizational location, organizational temporality, and/or organizational demography. In this study, I discuss two organizational factors, organizational structure and organizational location, and empirically examine their impact on the administrative behavior within RME.

Social constructivists literature studies the initial construction and formation of identities, role conceptions and codes of conduct (Trondal 2001:3). It argues that the institutional and social contexts embedding actors have some fundamental implications for the behavior, identities and roles enacted by those actors (Trondal 2001:4). Hence, social constructivists views identity, roles and/or interests as a ‘relational ontology’ (Ruggie 1998:4) where ‘the identities, interests and behavior of political agents are socially constructed by collective meaning, interpretations, and assumptions about the world’ (Adler 1997:324 in Trondal 2001:5). In addition, it attributes identity and role formation to the ideational factors, such as culture, norms and ideas. A social constructivist theory complements the organizational accounts of role and identity formation, which see roles and identities as systemic and based on the material factors, with accounts that see the roles and identities as a product of socialization processes. In this way, social constructivist theory allows us to see individual roles and identities as a product of a long evolutionary process, which has its history, culture and characteristics.

### **1.3 Case Selection**

The theoretical focus of the study is viewed and explicated through a single case study of the Norwegian Energy Regulatory Authority (RME). RME was designated by the Ministry of Petroleum and Energy (MEP) as a single regulatory authority for energy and gas in 2019. It is organized as a legally distinct and functionally independent unit inside Norwegian Water Resources and Energy Agency (NVE) – a professional agency under the Ministry.

Case selection was driven by several factors. RME is chosen as an object of this study due to the academic relevance of the case in focus. Current focus of the integration research on behavior of agents participating in the multi-level administrative structures of EU makes it

highly relevant to investigate role perceptions of civil servants within national agencies strongly embedded within this context. In this respect, the RME agency represents an information-reach case as the agency is both created following the decree from the EU, and has a legally-binding obligation to participate in the EU network of energy regulators (ACER).

The case for this study was also selected because of its criticality. A critical case demonstrates that ‘if it happens here it will happen anywhere’ (Patton 1990:236 in Emmel 2014:). RME can be seen as a critical case or a ‘least likely’ case because of certain case characteristics. Firstly, as a new administrative body on a political-administrative scene, the agency has not yet managed to develop a distinct sense of purpose and an agency-identity to accompany it in order to craft a distinct ‘space’ in the face of potential environmental threats to its existence (Eisenstadt 1959). Hence, it is reasonable to believe that the patterns of behaviour inside RME still reflect the national political and administrative cultures and beliefs. Moreover, the normative element of the Norwegian administrative jurisdiction under which RME operates is expected to exert a strong reinforcing effect on these patterns of behavior. Also, given the politicization of the energy sector due to its high importance for the Norwegian foreign policy, and security and defense policy it is unlikely that Norwegian political leadership will start to think and talk about energy policy in the exclusively economic terms any time soon. All these factors combined will most likely make it more difficult for RME officials to develop any strong allegiance to the European level.

#### **1.4 Key Findings**

The empirical findings in this study suggest that administrative behavior of RME officials are located on the functional expert - bureaucrat dimension, and that it is systematically shaped by the organizational structure. In particular, the horizontal specialization of the RME agency along functional lines wields the strongest effect on the formation of the departmental role among RME officials. Concomitantly, the inter-organizational vertical specialization whereby the RME is structurally separated from the Ministry wields the strongest effect on the formation of the professional/expert role among RME officials. These patterns of behavior epitomize the traditional split between politics and profession and seem to be quite stable and resilient to change.



## **1.5. Disposition**

The research paper proceeds as follows. Chapter 2 outlines theoretical framework for this study. The theoretical framework draws on contributions from several research areas to develop not only the role conceptions for RME officials but also the explanation for these role conceptions. Chapter 3 outlines research design and data collection method as applied in this research. Chapter 4 presents empirical findings. This chapter is divided in two parts; in the first part of the chapter, a short introduction to the energy sector governance in both Norway and EU is provided. Also, the external dimensions of the RME agency, its legal statues, institutional design, competencies and duties, as well as relationship to other actors within EU energy policy network are presented. The second part of the chapter focuses on the internal dimensions of the RME agency by presenting data from the interviews. In chapter 5 the empirical data is analyzed based on the theoretical propositions as outlined in chapter 2. In the concluding chapter 6, I briefly summarize the results of the study and indicate their broader implications, as well as I make some suggestions for future research.

## **CHAPTER TWO: THEORETICAL FRAMEWORK**

This chapter presents theoretical framework for this research. In this research, several theoretical contributions are used to build the argument and analyze the findings. Role theory and insights from recent institutional scholarship are used to construct role sets for RME officials. Insights from organization and social constructivists theory are used to develop theoretical expectations about influence of organizational and social factors on preferences, role and identity formation inside RME.

### **2.1 Role Theory**

Organizations can be understood as systems of interdependent roles and modes of behavior, the occupants of which communicate to each other, often implicitly, expectations about ‘how to behave’ and ‘what has to be done’ (Lizzio and Wilson 2009:72). Organizational role can be understood as ‘a generalized receipt for action as well as a normative system of self-reference that provides spontaneous feelings of allegiance to organized communities’ (Bevir et al. 2003: 4; Mayntz 1999:83 in Trondal 2007:1114). In the conception of role there is by assumption a close fit between behavior and disposition (attitude, value) as ‘what people do and how they do it depends upon how they see themselves and their world, and this in turn depends upon the concepts through which they see’ (Pitkin 1972:1 in Trondal 2004:10).

From the standpoint of the organization, the creation of this organizational role and personality is essential to rationality in administrative decision (Simon 1957:279). By specifying particular values, objectives, facts and alternatives, organizational role creates frames of reference/premises for organizationally correct decision-making. ‘Through subjugation to organizationally determined goals, and through gradual absorption of these goals into his own attitudes, each organizational member acquire an organizational personality rather distinct from his/hers personality as an individual’ (Simon 1957:278). ‘When organizational members identify with their organization, they act spontaneously in its interest, without being told exactly what to do’ (Mayntz 1999:83 in Trondal 2004:9). In other words, individual decisions in organizations are guided by the values and objectives of that particular organization (organizational value scale) rather than individual motives (personal value scale) of individual decision-makers (Simon 1957:278).

Overall, role imposition is an important mechanism for constructing an environment for decision within organizations as ‘it assures that decisions will be made responsibly and impersonally’ (Simon 1957:294). The roles to be adopted and beliefs and values to be accepted are generated by the organizational structures and institutional processes. Recent institutional scholarship suggests that agents embedded in multiple institutional contexts are often confronted with multiple institutional ‘logics’ or ‘broad belief systems that specify the boundaries of organizational field, its rules of membership, and the role identities and appropriate organizational arrangements of its constituent communities’ (Suddaby and Greenwood 2009 in Buchanan and Bryman 2009). They have to learn to balance these multiple norms, rules and behavior expectations effectively. Ultimately, the way in which expectations of these roles are balanced by the organizational members will have an impact on the administrative decision-making within the organization.

RME operates in a complex environment characterized by multiple organizational memberships, diversity of actors and institutional logics. The work of RME is embedded in two arenas of strategic interaction: departmental and interdepartmental preparation and coordination arenas at the national level; and policy network arenas at the European level. It is reasonable to expect that these two rather different organizational contexts mobilize different expectations to roles and code of conduct among RME officials. As a specialized regulatory agency with specific task and competencies RME is staffed by experts responsible for efficient regulation of the electricity and gas market. Norms and values associated with scientific knowledge and expertise are expected to play an important role within the agency. Agencies’ embeddedness within national administration facilitates infusion of domestic political and administrative cultures and beliefs into the agency. As part of national administration, RME’s operation is likely to entail a strategic effort to produce timely, coherent and sensible national policy positions, and to build support for these at the European level. Hence, embeddedness within national administrative apparatus is expected to drive forward local, unit-centered preferences and role conceptions among RME officials.

On the other hand, participation in the European network of energy regulators exposes RME officials to institutional logics particular to this context. Created to promote cooperation between national regulators, this network arguably ‘embed strong norms of professionalism, neutrality and independence’ (Danielsen and Yesilkagit 2014:357). On the other side, mutual

influence and integration between network participants and EU institutions might also contribute to development of supranational norms and values that ‘differentiate individual regulatory authority from strictly domestic political and administrative cultures and beliefs’ (Danielsen and Yesilkagit 2014:358). Participation in the European network of energy regulators entails strategic effort to contribute to effective European energy policy development at the EU level, and policy implementation at the national level where RME officials are expected to behave like independent experts and efficient policy regulators. Hence, participation in the European network of energy regulators is expected to be conducive to professional/epistemic and/or supranational role conceptions among RME officials.

Based on the above, I assume that RMEs multiple institutional embeddedness encourages development of multiple preferences, roles and identities among RME officials. In particular, RME officials may evoke the following roles perceptions: departmental role perception of the bureaucrat, epistemic role perception of the independent expert and/or a supranational role perception of the European advisor.

### **2.1.1 Departmental Role / The Bureaucrat**

Departmental role conception is related to the idea of ‘civil servants as Weberian officials who attach their identity towards their organizational unit, and abide by the administrative rules and proper procedures of their organizational bureaucracy’ (Olsen 2010 in Marcussen and Trondal 2011:599). Departmental role implies that public service officials coordinate their tasks and make decisions in accordance with the formalized roles, routines and rules prescribed by some higher authority (Trondal and Kiland 2009:7).

Following this role perspective, RME officials are expected to place their primary allegiance towards their organizational unit where they spend most of their time and energy. Organization’s objectives specified by the parent Ministry and/or NVE will serve as the major value-premise for administrative decision-making. Coordination of tasks and administrative decision-making will be based on the standard roles, routines and rules prescribed by the legal mandate and other relevant processual routines. Overall, their behavior is expected to be subject to bureaucratic constraints (Haas 1995).

### **2.1.2 Epistemic Role / Independent Expert**

The epistemic role conception implies that agents participating in the European networks enjoy a great deal of discretion, being influenced primarily by external professional reference groups - epistemic communities (Asher 1983 in Marcussen and Trondal 2011). They pride themselves on their expertise - 'a body of knowledge valued by society and political actors' (Haas 1995:15).

According to Haas (1995:16) members of epistemic communities not only hold in common a set of principled and causal beliefs (a value-based rationale for the social action of community members), but also have shared notions of validity (intersubjective, internally defined criteria for weighing and validating knowledge in the domain of their expertise), and a shared policy enterprise (a set of common practices associated with a set of problems to which their professional competence is directed). Their authoritative claim to policy-relevant knowledge in a particular domain is based on their recognized expertise within that domain. The combination of shared causal beliefs and shared principled beliefs held by epistemic community members inform the advice they offer (Haas 1995).

Following this role perspective, RME officials see themselves as belonging to a professional or scientific group that supersedes their immediate organizational affiliation. They are expected to pursue activities that reflect 'standards and practices of their professional group, including colleague control, free exchange of information, the pursuit of knowledge for its own sake, and personal professional development' (Kornhauser 1962; Hagstrom 1965 in Stryker and Macke 1978:77) above their organization's. Their primary allegiance will thus be directed towards members (experts) of the European network of energy regulators that share their principle beliefs. Decision-making is expected to be influenced by 'considerations of scientific and professional correctness and the power of the better argument' (Eriksen and Fossum, 2000 in Trondal 2007) rather than 'the preexisting political interests or preferences of high-level policymakers and/or their individual careers' (Haas 1995).

### **2.1.3 Supranational Role / European Adviser**

Supranational role conception emphasizes actors' feelings of loyalty and allegiance to the supranational norms, interests, policies and politics. The interaction at the EU level may encourage a 'fusion' of 'national' and 'EU interests' that requires a problem-solving policy-making orientation (Wessels 1997). As such, supranational role implies a 'shift of loyalty' and

a ‘sense of community’ that is integral and endogenous to actors’ self-perceptions (Deutsch *et al.* 1957:5; Haas 1958:16; Herrmann and Brewer 2004:6 in Trondal 2007:1113).

Following this role perspective, active participation in the European network of energy regulators, is expected to promote an ‘organizational personality’ that is rather distinct from the departmental and epistemic roles previously internalized (Searing 1991:1249) by RME officials. When evoking the supranational role, RME officials are expected to emphasize utilitarian benefits, collective system of decision-making, and demonstrate favorable attitude towards integration project as a whole. They are also expected to be more sensitive to signals from the European level, in particular interests and policy positions promoted by ACER and/or other EU institutions in which they participate. Correspondingly, the importance of the role of ‘European adviser’ who helps the domestic systems mediate and internalize the ‘European’ becomes increasingly salient (Kerrmans 1996:223 in Herrmann 2004:92).

Conflicting expectations (normative prescriptions) of these roles and/or confusion in immediate interactions (individual’s experience of conflicting expectations) can cause role conflict (Stryker and Macke 1978). For instance, the values and orientations of the epistemic communities can contradict the norms or survival needs of the employing organization (Stryker and Macke 1978:77). Hence, epistemic communities may experience strain when pressured to adopt organizational standards. On the other hand, roles may complement each other and/or be configured into a system of multiple loyalties. Indeed, some studies demonstrate that national and supranational roles correlate positively (Licata 2000; Risse 2001 in Trondal 2004). According to Herrmann *et al.* (2004) multiple group identities can be nested, cross-cutting and/or separate. Nested roles are conceived of as concentric circles or Russian Matruska dolls where one role represents a subunit of the other. For example, national identities are subsumed by supranational identities. Cross-cutting identities mean that members of one identity group are also members of another identity group. Separate identities represent nonoverlapping memberships, where different groups that a person belongs to are distinct from one another. Herrmann *et al.* (2004) claim that understanding changes in organizational identity requires not only understanding which groups constitute significant social identities for organizational members but also how their multiple identities are configured and related to one another in the dynamic system of multiple loyalties. The institutions of the EU may be subjectively represented for some individuals as superordinate group within which national identities are nested, but for others their European identity may subjectively cross-cut their national identity.

This difference in subjective representation may have a lot to do with whether European and national loyalties are experienced as compatible or in conflict (Herrmann et al. 2004:10).

The above indicates that RME officials may face cross-cutting role pressures between the departmental, epistemic, and/or supranational role conceptions. Whether these multiple roles lead to a role conflict will depend on the individual’s ability to handle competing role expectations. While some individuals may find it difficult to isolate their national and European role perceptions into separate domains, others will easily integrate demands of multiple roles. To summarize, I assume that RME officials can enact the following repertoire of roles:

*Table 1: Role Repertoires within RME*

<b>Role conception</b>	<b>Departmental role ‘The bureaucrat’</b>	<b>Epistemic role ‘Independent expert’</b>	<b>Supranational role ‘European adviser’</b>
Primary institutional allegiance	Organizational-unit (RME unit)	European network of energy regulators	ACER/EU Commission
Decision making / logic of action	Task portfolio considerations direct decision making within RME	Policy/sector considerations direct decision making within RME	‘European’ considerations direct decision making within RME
Role expectations	Attention to task portfolio / organizational concerns	Attention to functional needs of the policy area / sector	Attention to EU-wide policy concerns
Preferences	Organizational/Local	Expertise	Utilitarian / Collective

## **2.2 Organizational and Social Constructivists Theory**

Another question to answer is what factors can explain variation in administrative decision-making behavior of agency officials? What can explain that certain roles and administrative behaviors are more salient to the agency officials compared to others? To answer this question, it is necessary to unpack organizational context in which RME officials interact. This study uses insights from organizational and social-constructivist theory to provide explanation for variation in administrative behavior within organizations. From the organizational perspective, organizational factors, such as organizational affiliation, organizational structure, organizational location, and organizational demography, can contribute to the enactment of particular identities, roles and codes of conduct. Social constructivists approach, on the other hand, postulates that the social contexts embedding actors have some fundamental implications for the behavior, identities and roles enacted by those actors (Trondal 2001:4). ‘This approach highlights the role of institutional learning, ‘cultural match’ across systems, ‘logic of appropriateness’, argumentative persuasion and regulative rules’ (Trondal 2001:7).

In the following, I will discuss two organizational variables: organizational structure and organizational location, which are of particular relevance for this study, and the social constructivists variable of socialization and make causal linkages between these variables and formation of particular role conceptions among RME officials.

### **2.2.1 Organizational Structure**

Organizational theory literature suggests that the way organization is structured affects behaviour of organizational members. This literature draws heavily on the insights from cognitive psychology postulating that the evocation of roles is ultimately governed by the individual need for uncertainty reduction as regards their ‘perceptions, attitudes, feelings, and behaviors’ (Hogg and Terry 2000:124 in Trondal 2004:11). According to Scott (1981 in Egeberg 2004) ‘organizational structure represents a normative structure composed of rules and roles specifying, more or less clearly, who is expected to do what and how’. Hence, by defining the interests and goals to be pursued and concerns to be emphasized by organizational members, organizational structure simplifies cognitive and normative search processes and reduce cognitive uncertainty (Checkel 2005). From this follows that identities and roles conceptions of organizational members will most likely be affected by interests and concerns that are clearly embodied in the organizational structure (Egeberg 2006). Within organizational perspective,



identities and roles are often seen as relatively easy to mould and remould on the basis of organizing and reorganizing organizational structures (Nkomo and Cox Jr 1996 in Trondal 2001:6). Reorganizing from one principle of organization to another, changes the flow of information available to each decision-maker, which ultimately frame decision-maker's goals, preferences and responses (Sevón 1996 in Trondal 2001).

Organization planners can subdivide and specialize activities in such a manner that the psychological forces of role identification will contribute to correct decision-making. *Horizontal specialization* refers to the way tasks are linked or de-coupled from each other at one level (Egeberg 2004). Tasks can be distributed horizontally among organizational units based on the principle of territory, major purpose/sector, process/function and/or clientele served (Gulick 1937 in Egeberg 2004). Each of these mobilizes its particular goals, operational styles and cleavages of conflict, which often encourages fragmentation of national bureaucracies. For instance, horizontal specialization according to the principle of territory tends to cause 'spatial perspectives and encourage policy-makers to focus on territorial concerns' (Vestlund 2017:65). On the other hand, specialization according to the principle of function is expected to 'activate administrative styles where coordination and conflict patterns tend to be channelled within sectoral portfolios' (Trondal 2017). This is likely to bias decision-making dynamics inwards towards the organizational unit, where preferences, contact patterns, roles and loyalties are directed towards sectoral portfolio and organizational unit. Horizontal specialization according to the principle of purpose may also 'foster sectoral horizons among decision-makers contributing to policy standardisation across territorial units' (Egeberg 2004) where similar problems enable interaction and resource pooling among organizations in search of viable solutions.

*Vertical specialization* denotes vertical hierarchies of rank and command within and across organizations. According to Lægreid and Olsen (1978:31 in Trondal 2017) these hierarchies are able to guide the decision-making behavior evoked by civil servants through discipline and control. Vertical specialization can be of two types: intra-organizational and/or inter-organizational. *Intra-organizational specialization* specifies vertical hierarchies of rank and command within the same organization. Formal position within organizational hierarchy can have implications for individual behavior as it exposes organizational members to different realities of 'mutually exclusive problems, alternatives, and solutions' (Trondal 2017). Some studies show that officials in higher-ranked positions tend to identify more frequently with

organizations as wholes than officials in lower-ranked positions (Egeberg and Særtren 1999 in Kühn and Trondal 2019). Other studies show that officials in lower-ranked positions are less sensitive to signals from political leadership compared to officials in higher-ranked positions (Egeberg & Trondal 2009 in Trondal 2017). A relative degree of insulation from political leadership may make lower-ranked officials more sensitive to impulses from the EU level. According to Kühn and Trondal (2019) officials dealing with the EU are increasingly far from the political level and are strongly ‘Europeanized’ by being tightly interwoven and influenced by EU institutions. For instance, Trondal (2007) found a positive relationship between the formal rank position of seconded national experts (SNEs) in the EU Commission and the degree to which they evoke a supranational role. However, due to their rank within the Commission hierarchy, SNEs tend to put stronger emphasis on departmental and epistemic roles than on the supranational role.

*Inter-organizational specialization* specifies vertical hierarchies of rank and command between organizations. Hierarchy between organizations ‘provides certain decision inputs, for example, a more general view of hierarchically superior unit compared to lower ranked units, that cannot easily be achieved through purely horizontal arrangements’ (Kühn and Trondal 2019:1379). Vertical specialization of administrative systems, where national agencies are organized at arm’s length from their respective ministries, became a common feature in all western democracies since 1980/90s after a series of reforms (generally termed New Public Management) in the public sector. There seem to be a conviction that this particular way of organizing national bureaucracy offers ‘greater transparency, expert authority, flexibility, better informed decisions and better policy implementation’ (Wolff and Schout, 2013: 306). Formal separation between the agency and its parent ministry minimizes formal steering from the ministerial level whereby agencies receive fewer instructions from the national political and administrative leadership. Structurally enabled de-prioritization of political concerns, as well as reduced political oversight provide more room for professional (expertise based) decision-making, and can facilitate more independent interaction within transnational policy network.

### **2.2.1.1 Expectations to Findings**

Based on the above, the following assumptions can be made regarding effects of organizational structure on administrative behavior within RME. Firstly, *horizontal specialization* of RME encourages several role conceptions among RME officials. RMEs horizontal specialization according to the principle of function (regulator function) is expected to channel RMEs

attention towards concerns related to their task portfolio, with stronger coordination and contact patterns along task and sectoral lines. Intensive intradepartmental coordination is expected to bias preferences of RME officials towards their organizational unit, and more likely to evoke departmental role conception.

Moreover, functional specialization of RME is expected to promote policy enterprise across national boundaries. Interaction within transnational policy network and ACER is expected to make common policy interests and needs more salient for RME officials. At the same time, it might promote more centralized supranational administrative decision-making behaviour characterized by integration and mutual influence across national borders and levels of government (Vestlund 2017). Thus, shared specialization between RME and transnational policy network is expected to be conducive to professional role conception among RME officials where they will tend to affiliate and identify themselves with groups that likewise reflect or seek to promote energy policy interests. It can also be conducive to supranational role conception among RME officials ‘as communities of highly educated experts tend to fuel the development of supranational roles’ (Trondal 2007:1117). Here as well, officials’ position in the hierarchy is likely to affect the degree to which they identify with the supranational role perception. The officials on the operational level are expected to be more tightly interwoven and influenced by EU norms and values than officials in the leadership positions due to higher degree of insulation from political leadership.

Secondly, *vertical specialization* of RME may encourage several identification patterns among RME officials. Intra-organizational vertical separation of RME leadership and officials from NVE’s leadership is expected to foster enactment of departmental role conception among RME officials. Moreover, the extent to which officials enact departmental role perception is more likely to be affected by the officials’ position in the hierarchy. As such, evocation of the departmental role is expected to be stronger among RME officials in higher-ranked (leadership) positions than among officials in lower-ranked (technical) positions. The latter are more likely to identify with the professional and supranational role conceptions as a result of stronger involvement with technical issues, facilitated by relative degree of insulation from the political leadership, and tighter embeddedness into the European energy policy network, necessitated by common policy issues.

Inter-organizational vertical specialization is expected to foster professional role conception among RME officials. RME's organization at arm's length from the ministry is expected to make RME less sensitive to the political signals from the ministry. Professional and technical concerns at the agency level are expected to promote professional identification patterns among RME officials.

### **2.2.2 Organizational Location (Locus)**

The issue of location of governmental institutions is the government's responsibility and an administrative issue that falls within the government's constitutional governing law. The geographical distance to political leadership has been stressed as beneficial for the autonomy and professionalism of the regulatory agencies. In particular, the physical distance between the political and professional public institutions will lead to less, but more formalized contact, and make it easier to trace potential trade-offs between the professional/administrative and political considerations.

Several scholars have emphasized the effect of organizational location on administrative behavior within the organizations. Most organizations are still located in physical places and buildings. According to Egeberg (2004) 'organizational location, like organizational structure, creates boundaries that focus the attention of decision-makers and help them to cope with complex reality'.

Physical distance within and between organizational buildings encourages certain administrative styles as it affects contact patterns and coordination behavior (Egeberg 2003 in Egeberg 2004). For instance, segregation of organizational units in physical space encourages development of 'local cultures' (Hooghe 2005:878) because it facilitates more intradepartmental contact and coordination, and less contact and coordination between main organization and organizational units, rendering signals from the main organization less importance. Thus, segregation of organizational units is able to provide a more concrete rendering of individual identities through 'perceived similarity, interaction, and task and goal interdependencies may facilitate a perception of entitativity – of being a grouplike' (Ashford and Johnston 2001:35). On the other hand, concentration of organizational units in physical space, is likely to encourage higher degrees of interdepartmental contact and coordination, enabling transfer of common organizational identity from one unit into the other (Egeberg 2003 in Egeberg 2004). This effect is likely to be reinforced by interdepartmental mobility which

seem to promote identification with common organizational norms and values and hinder identification with particular unit (Hooghe 2005:879).

### **2.2.2.1 Expectations to Findings**

Based on the above, the following expectations can be made regarding effects of organizational location on administrative decision-making inside RME. RMEs location in the same building as NVE is likely to encourage higher degrees of formal and informal interdepartmental contact and mobility. High levels of contact between NVE's departments are expected to transfuse NVE's norms and values into RME's decision-making process. By facilitating NVE's organizational culture to flow freely through all organizational departments within NVE, co-localization of RME and NVE is expected to perpetuate local bureaucratic roles and identities and hamper the development of the supranational roles and identities among RME officials. Physical proximity to various professional communities working within NVE is expected to be important supplier of competence-related knowledge and expertise. By complementing each other professional communities of RME and NVE are assumed to perpetuate the importance of the professional role of independent expertise.

### **2.2.3 Socialization**

There is a growing strand of literature that assumes that institutions have the ability to form and change identity of agents participating in them through socialization. Socialization models of role evocation and change focus on the role of individual experience with the institution and its consequences for behaviour (Herrmann et al 2004). The theory assumes that individuals have a psychological need to minimize inconsistent beliefs in order to decrease information costs (Hooghe 2005:870). Socialization can be defined as a 'process of inducting actors into the norms and rules of a given community' (Checkel 2005:804). One mechanism by which this occurs is the 'logic of appropriateness' (Checkel 2005:812) where conscious instrumental calculation (logic of consequences) has been replaced by conscious role playing. This is what Checkel (2005) identifies as Type I internalisation or socialization which implies that agents may behave appropriately by learning a role - acquiring the knowledge that enables them to act in accordance with expectations - irrespective of whether they like the role or agree with it. In other words, actors decide which role is appropriate to enact based on the particular situation and their perceptions of socially accepted patterns of behaviour in a given setting or community. As such, 'role playing presupposes an agent's passive, non-calculative acceptance of new roles evoked by certain environmental triggers' (Checkel 2005:812). On the other hand, conscious

instrumental calculation can be replaced by ‘taken-for-grantedness’ (Checkel 2005). This type of socialization Checkel (2005) calls for Type II internalisation or socialization which implies that agents can also adopt the norms, interests, or even possibly the identity, of the community of which they are a part. In other words, ‘whereas role-playing represents an intermediate level of socialization at the cognitive level, role internalization is a more complete form of socialization based on the mechanism of normative suasion’ (Johnston 2003; Zurn 2003 in Trondal 2004:9).

Furthermore, socialization models allow for different degrees of experience with institutions among actors, with corresponding differences in depth and level of identification with those institutions (Herrmann et al. 2004:14). As such, the probability of transition from Type I to Type II socialization increases with different degrees of experience with institutions. Following Checkel (2005:811), internalization of new role conceptions in line with community/group norms is more likely under the following institutional conditions: (1) agents are in settings where contact is long and sustained, and it has some significant duration; (2) agents are in settings where the contact is intense. Both conditions are positively related to the emergence of relatively stable social, normative and strategic networks that provide an autonomous impact on the participants’ perceptions of the strategic and appropriate behaviour (Atkinson and Coleman 1992:161; Hay and Richards 2000 in Trondal 2017) and development of ‘internalized norms like diffuse reciprocity, deep trust, mutual responsiveness, consensus and a ‘we-ness’ (Lewis, 2005:949 in Trondal 2007:1118).

### **2.2.3.1 Expectations to Findings**

From the socialization perspective, the effect of socialization is assumed to be positively associated with the duration and the intensity of interaction among actors and/or exposure to certain institutions, norms and culture. As RME officials spend most of their time and energy in their organizational unit, it is expected that their organizational unit would be the most important and influential source of normative guidance for them. Being an employing organization, RME determines their obligations, expectations, information networks, incentives and sanctions (Egeberg 1999:5). Task interdependencies are expected to encourage more intradepartmental contact and coordination inside the RME unit. In its turn, the intensive intradepartmental contact and coordination is expected to make departmental role conception more salient for RME officials.

At the same time, RME officials with regular and/or sustained contact with actors within the European network of energy regulators are more likely to be socialized into norms and expectations of the network. As pointed out before, this network can be a motor for both strong norms of professionalism, neutrality and independence, and/or European interests and preferences. Hence, RME officials with regular and/or sustained contact within this context are expected to identify more strongly with the professional and/or supranational roles than officials without regular and/or sustained contact within this context.

To summarize, I make the following theoretical expectations with regards to effects of organizational and socialization variables on behavior (role perceptions) of RME officials:

*Table 2: Independent variables and expected effect on role perceptions*

Independent variable	Expected findings
<i>Organizational variables</i>	
<i>Horizontal specialization</i>	<p>RMEs horizontal specialization according to the principle of function is expected to channel RMEs attention towards concerns related to their task portfolio. Focus on the task portfolio is expected to increase intradepartmental contact and coordination, and be conducive to the departmental role among RME officials.</p> <p>Shared sectoral affiliation and specialization between RME and other agencies within European network of energy regulators is expected to foster interaction, expertise sharing, and mutual influence among network participants. Mutualisation of problems and solutions is expected to promote professional and/or collective decision-making within RME, thus fostering epistemic and supranational role among RME officials.</p>
<i>Vertical specialization</i>	
<i>Intra-organizational</i>	<p>RME officials in higher-ranked positions are expected to evoke departmental role conception more strongly than officials in the lower-ranked positions.</p> <p>RME officials in the lower-ranked positions are expected to evoke professional (independent expert) and/or supranational (European adviser) role conceptions more strongly than officials in the higher-ranked positions.</p>
<i>Inter-organizational</i>	<p>Vertical separation of RME from the MEP ensures RME considerable degree of independence from political leadership and allows the agency to concentrate on the technical decision-making. It is thus expected that inter-organizational vertical specialization will be conducive to the professional / expert role perception among RME officials.</p>

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*Organizational location*

RME's physical proximity to various professional communities working inside NVE is expected to be conducive to development of the professional role among RME officials.

The co-location of RME and NVE is expected to encourage higher degrees of interdepartmental contact and coordination, facilitating identification with the norms and values of the main organization. Hence, RMEs location is expected to make decision-making process inside RME more sensitive to signals from NVE, and hamper development of both the departmental and supranational roles.

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*Socialization variables*

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*Duration and intensity of interaction*

RME officials with extensive daily contact with actors within national administration (NVE and/or MEP) are more likely to enact the departmental/bureaucratic role conception.

RME officials with extensive daily contact with actors within network of energy regulators are more likely to develop perceptions of belongingness to that group. Hence, they will more readily enact the epistemic role of independent expert and/or the supranational role of European adviser.

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## **CHAPTER THREE: RESEARCH DESIGN AND METHOD**

This section outlines strategy for data construction as applied in this study. In the following, I will outline the research methodology, sample, data collection methods and analysis techniques used in this study. Methodological challenges and mitigation measures will also be illuminated in the end of the chapter.

### **3.1 Research Method**

The selection of the research methods was driven by the research purpose and problem definition (Bukve 2016). The main purpose of this study was to examine if RMEs participation in the European network of energy regulators affects established patterns of administrative behavior within the agency. The administrative behavior within organizations is seen as a consequence of material factors within organizations as well as institutional dynamics, where the outcome is predicated by the way actors subjectively perceive and act upon the organizational and institutional pressures. Hence, when studying administrative behavior within organizations it is important to focus on ‘how subjective experiences such as social roles, routines, patterns of interaction become typified by actors so as to appear as an objective reality’ (Suddaby and Greenwood 2009 in Buchanan and Bryman 2009).

The need to tap into internal dimensions of administrative behavior by using microlevel data, such as role perceptions, concrete experiences and practices of individual decision-makers within RME made the use of qualitative interpretative methodology more appropriate. Qualitative interpretive method allows to pay close attention to the ways in which actors make sense of, or apply meaning to institutional practices and/or structures (Suddaby and Greenwood 2009 in Buchanan and Bryman 2009).

#### **3.1.1 Case Study**

The theoretical focus of the study is being viewed and explicated through a single case study of Norwegian Energy Regulatory Authority (RME). RME operates in a complex environment characterized by multiple organizational memberships, diversity of actors and institutional logics. Administrative behavior within RME is assumed to be assimilated from these organizational structures and institutional processes that generate roles to be adopted and beliefs and values to be accepted. Hence, role perceptions held by RME officials will be influenced not only by the organizational structures and institutional logics of multiple organizational contexts. In order to understand role perceptions, and underlying conditions behind role

formation and change, we need to consider as much of the contextual information as possible and understand the behavioral conditions through the actor's perspective (Zainal, 2007). Case study allows to capture this complexity and consider important contextual information by facilitating continued proximity to the studied reality and feedback from those under study (Flyvbjerg, 2006:223). It allows for a holistic approach to knowledge construction for the studied phenomenon, making it possible to reveal the interacting factors or mechanisms that lead to a given outcome (Yin, 1984:23). Moreover, the case study method is well suited to detect changes in patterns of behavior resultant not only from the overt elements of organizational structure but also from normative changes (changes in meanings and interpretations of a practice) which can be difficult to detect by other forms of analysis. 'By allowing to trace the norms, values, and ideologies that underpin the overt elements of organizational structure, the case study thus offers a more compelling test of whether and why patterns of behavior can also be the consequence of institutional dynamics' (Suddaby and Greenwood 2009 in Buchanan and Bryman 2009).

### **3.1.1.2 Sampling Frame**

Sampling decisions shall be made according to the purpose of the study. According to Ishak and Bakar (2014:29) the primary purpose of sampling for a qualitative researcher is 'to collect specific cases or units of analysis that can clarify or deepen the researchers understanding about the phenomenon under study, and/or enhance what other researchers have learned about a particular social life or phenomenon'. The aim of this study was to explore administrative behavior inside RME by studying role perceptions of RME officials. The concomitant aim was to assess if RME's embeddedness into European networks led to transformation of administrative behavior inside RME.

The initial sampling strategy was theoretical; the intention was to select RME officials on the theoretical ground. One of the central criteria for selection of the interviewees was their active engagement with EUs network of energy regulators. It was essential to gain access to officials involved with policy harmonization at the EU level to assess if these officials report a change in the behavior due to greater exposure to the EU-level. However, to be able to assign this effect to the networking, I also needed to interview officials without this particular experience, and see if there were any differences in the subjective role perceptions.

Furthermore, to assess the effect of vertical intra-organizational specialization on behavior of individual decision-makers, it was necessary to get access to officials in both the lower-ranked positions and higher-ranked positions as these groups of officials were expected to emphasize different behavioral logics and, thus, demonstrate diverse role orientations. Hence, I planned to get in contact with as many of totally 63 RME officials as possible.

I started to engage with RME in the middle of February 2019. With the help of my project supervisor I came into contact with an official in the Norwegian Water Resources and Energy Directorate (NVE) who facilitated my contact with RME. Through him, I got contact information to an official inside RME who agreed to help me to select interviewees for my project based on the sampling criteria that I had indicated in my initial correspondence. In the beginning of March, I reached out to her, and asked if I could conduct interviews with as many RME officials as possible during the same month. At that time, the first signs of what was later to be known as the Covid-19 pandemic started to emerge. The whole society started to shut down from the middle of March. Officials in both public and private companies were encouraged to work from home. In the midst of this, I received a negative reply from RME. The agency was unable to dedicate resources to my project in the circumstances of the pandemic.

At this point I was at the crossroads. A decision had to be made if I should proceed with my current project or turn it into a desktop research by redefining problem definition, or should I look for the alternative agencies? I did not want to abandon my project altogether because I was convinced that I had a theoretically interesting and relevant research agenda. On the other hand, the ongoing Covid-19 pandemic made the alternative to research another agency less feasible. I saw it as very likely that other potential agencies had the same capacity problems as RME caused by the pandemic. When, in the end of March, the University announced that students whose research projects had been affected by Covid-19 could search extension for submission deadline, I used this opportunity to postpone my research. I hoped that once the situation stabilized, I would be able to conduct the interviews in RME. In the end of May I made my second attempt to get interviews in RME through my existing contact. My request was once again declined due to the same reason. I decided to ask for more help from my initial contact in NVE. After several weeks of email correspondence and calls, I finally got a reply from RME in the end August. They agreed to one interview.

I realized that the success of my project depended on my ability to get more RME officials into talk. Hence, I found a list over RME officials on the agency's web page, identified to sections inside RME that, per my calculations, had greater concentration of officials embedded in the European networks (in this case, grid regulation and wholesale market sections), and engaged in cold calling. In this way, I was able to get two extra interviews. After these interviews were conducted and I was waiting for feedback from three more officials, I received email from RME management in which they asked me to cease all further enquiries regarding interviews. Officials who consented to participate in my research over the phone, were followed up by an email with detailed project information.

Hence, the sample in this study consists of three RME officials. One of the officials works at the managerial level, and the remaining two officials work at the operative level. All of the interviewees were part of the Electricity Market Authority, one of the departments inside NVE. When the Electricity Market Authority was renamed and reorganized as a single regulatory authority - RME - they naturally became part of this unit. Interviewee 1 has started to work in the Electricity Market Authority department in 2013. This official occupies a managerial position and has a long experience from the energy sector. Interviewee 1 has many organizational tasks and sits in three groups – CEER, NordREG and ACER board of regulators. Interviewee 2 has been working in the Electricity Market Authority since 2007. This interviewee is an operational level official, with a background in engineering science. During the professional career in NVE/RME the interviewee 2 has had a variety of tasks and has worked a lot with the tasks that today's RME has. The interviewee has also experience from collaboration in the European networks, in particular NordREG and CEER. As part of the Electricity Market Authority, the interviewee was involved in the preparatory work related to the transition to the Third Energy Market Package and ACER. Today, the interviewee mostly works with national regulations. Interviewee 3 has been working in NVE as part of the Electricity Market Authority department since 2015. This interviewee is an operational level official, and has a background in engineering science. Today, interviewee 3 mostly works within nation context, with regulatory development projects that run over several years.

The sampling frame of three respondents can by no means be interpreted as sufficient to adequately confirm or refute validity of the theoretical propositions. In particular, this sample has one significant drawback, it lacks RME officials with active involvement in the European networks. Due to such bias in the sample, the conclusions made in this study regarding the

supranational role orientations must be taken with a bit of salt. I tried to mitigate the disadvantage of the small sample by focusing on the depth of coverage, whereby I tried to obtain more detailed accounts from each of my interview participants. I have also focused more on the documentary sources of information.

### **3.2 Data Collection**

The primary sources of information in this research were interviews and documents. The use of several data collection methods can be beneficial from the methodological point of view as it allows to corroborate and cross check information. To answer my research questions, it was essential to get an intimate knowledge of how RME officials understand and interpret (make sense of) their world/day-to-day experiences. This made interviewing important data collection method. The interview is a well-suited technique to use when one is interested in studying opinions, attitudes and experiences (Tjora 2018). It draws heavily a phenomenological perspective where the purpose is to understand nuances in interviewee's experiences and how they reflect over these experiences (Spradley 1979 in Tjora 2018).

Documents, on the other hand, can be a good source of contextual information, they can provide rich information regarding the context within which objects of study operate. In the words of Bowen (2009:29) 'bearing witness to past event, documents provide background information as well as a historical insight'. 'Documents of all types can help the researcher to uncover meaning, develop understanding, and discover insights relevant to the research problem' (Merriam 1988:118 in Bowen 2009:29). Methodologically, the use of documents has several strengths. First, documents are well-suited to in-depth analysis of framing process and strategies, that is the ways in which political actors define and construct issues, because 'documents contain extensive and systematically argued accounts of issues and because of the way they are understood by participants in the policy process' (Lynggaard et al 2015:128). Second, documents can be used to reconstruct the historical evolution of events and agendas over long periods of time since documentary evidence usually extends back many years. Thirdly, unlike oral sources of information, documents represent preserved traces, which persist beyond the local context of their production. Documents 'remain uniform across several and diverse local settings' (Smith 1984:60 in Miller & Alvarado 2005:349), hence data from the documents can be considered to be more objective and less error-prone.

Hence, documents can be a good source of information regarding the context within which RME officials operate, their roles, duties and responsibilities. Interviews, on the other hand, can be instrumental for obtaining subjective reflections of those who hold and practice these roles. In other words, documents allow us to get ‘time images’ while interviews allow us to get personal experiences and reflections around these (Tjora 2018:190).

### **3.2.1 Interviews**

Three (3) in-depth interviews with RME officials were conducted during September / October 2020. The aim of each interview was to understand how each respondent perceives and defines his/hers role in the agency based on the individual experience. The format for the interview used was a semi-structured interview. The semi-structured interview technique allows advantages of conversational flow and depth of response (Aberbach and Rockman 2002).

The interviews were conducted over the phone. Each interview, except for the first one that lasted for an hour, had a duration of approximate 45 minutes. It started with a little reiteration of the research aims and objectives. I chose to use open-ended questions in my interview to be able to capture ‘the depth and contextual nuance of response’, and, if necessary, to be able ‘to probe beneath the surface of a response to the reasoning and premises that underlie it’ (Aberbach and Rockman 2002: 674). The questions were structured around two core themes. The first bulk of questions aimed at mapping respondents’ expertise, and activity and contact patterns. RME officials were asked a series of questions about their tasks, organizational position, previous professional and organizational experience, and degree of their involvement in the European network of energy regulators. The second bulk of questions aimed at mapping role perceptions of the RMEs officials. RME officials were asked questions about their role perceptions and if they experienced any role conflict. Notes were taken during the interview which were transcribed following each interview to minimize the loss of information.

There are some methodological challenges connected to the use of interviews as data collection method. These includes both issues of validity and reliability. The valuable flexibility of open-ended questions can exacerbate the validity and reliability issues (Berry 2002:679). In particular, lack on standardization of the stimulus in the interview situation can threaten reliability. On the other hand, the open-ended questions can also provide a greater opportunity for respondents to organize their answers within their own framework which ultimately increases the validity of the responses.

Another challenge with using interviews as data collection method is to get honest responses from the interviewees who can deliberately withhold or misrepresent information and interpretations (Bleek 1987). This is in particular relevant for civil servants in the higher-ranked positions who are trained in how to represent their organization to the outside world instead of providing their personal accounts of events (Mikecz 2012). It is also not uncommon that civil servants in higher-ranked positions can be ‘tempted to dominate the interview process’ or ‘get into monologues instead of answering difficult questions’ (Mikecz 2012:484). Indeed, in my first interview I experienced some loss of ‘control over the format and direction of the interview’ (Richards 1996:201). This happened because the interviewee in question was familiar with my questions as he has received the questionnaire in advance. Under circumstances of Covid-19, I have submitted my project outline and questionnaire to RME in hope that these could be answered in a written form. Even though the majority of questions on the list were covered by the interviewee, the interviewee remained in good control over the process and content. Occasionally I had to interrupt the interviewee to clarify things or asked additional questions that I felt was of particular importance to my research. In this situation it was important for me to retain critical judgment throughout the whole interview process but also later, when analyzing the data. Simultaneously, I tried to gain disposition of the respondent by being supportive of his argumentation and tried to answer all of his questions in a transparent and detailed way. In the remaining two interviews I had a good control over the agenda, and I felt that the interviews went very well.

### **3.2.2 Documents**

Documents were used as commentary to get rich information on the Energy Regulatory Authority and its context. Available organizational records and administrative documents were studied to get an insight into history, formal institutional design, and tasks and responsibilities of RME. Special attention was given to national legislative acts such as Energy Act (LOV-2018-05-25-21), Prop 5L (2017-2018), Inst 175 L (2017-2018), ‘Regulation of grid operations and energy market’ (FOR-2019-10-24-1413), and 2020 letter of allocation. Internal documents providing information on internal dynamics inside RME (agendas, decision reports and/or guidelines, annual reports) available on the NVE/RME website were also assessed. Document ‘Procedures for decision-making and interaction’ describes procedures that the RME should follow in its decision-making processes, and its interaction with other parts of NVE to ensure RME’s independence.

Moreover, the EU's legislative acts, directives and regulations pertaining to the Third Energy Market Package and Internal Energy Market as such, were examined to get an insight into formal and normative rules regulating the relationships between RME and the EU-level actors. The following directives and regulations were of particular usefulness in this regard: Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity, Regulation No 713/2009 of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, Regulation No 714/2009 of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity. These directives and regulations allowed to build a comprehensive picture of the internal energy market rules and participation requirements. These documents establish distinctive norms, rules and role expectations for all actors (NRAs, ACER, Commission, TSOs) engaged in building the internal energy market. For instance, Directive 2009/72/EC outlines general objectives of the regulatory authorities, and their duties and powers. Regulation No 713/2009 establishes norms, rules, and role expectations for ACER officials while Regulation 714/2009 does the same for transmission system operators (TSO).

There are some methodological challenges connected to the use of documents as data collection method. According to Bowen (2009:33) documents should not be treated as necessarily precise, accurate, or complete recordings of events that have occurred. Hence, when working with the official documents one should remember that most of these documents are of strategic nature and are deliberately produced for wide circulation.

### **3.3 Data Analysis**

The data were analyzed through interpretation. Interpretation aims to make sense of the object of study by iterating between understanding of an object as a whole and understanding of its parts (Darke et al 1998:285). Analysis of data from the interviews and documents were framed by the theory/theoretical presuppositions presented in chapter 2. The goal of the analysis was to produce a comprehensive understanding of and explanation for the administrative behavior inside RME. This phenomenon was understood through accessing the meanings that participants assigned to them, placing particular focus on their cultural and historical context. The analysis of the interview data aimed to understand the administrative behavior as perceived and defined by RME officials themselves. Data from the documents were analyzed to put these perceptions in the context surrounding RME officials, and understand the dynamic interaction between RME officials and their context.



The qualitative interpretative method implies that the explanations of the phenomena will to some extent always be infused with researcher's subjectivity. By attempting to understand, describe and interpret from the respondents' perspective, a researcher will always in some or other way prejudice the findings. I embarked on this research with an open mind. I had my theory and expected to confirm the theory through the selected empirical case. Throughout the whole process, I tried to treat both the theoretical concepts that I used and the acquired empirical data impartially.

### **3.4 Methodological Challenges and Mitigation**

Case-study research methodology is often criticized for being an inferior research method compared with other methods of scientific enquiry. According to Flyvbjerg (2006) the main criticism seems to revolve around issues of theory, reliability and validity.

The conventional view of a case study research is that case study produces a type of context-dependent knowledge which is considered to be inferior to a context-independent knowledge of the scientific research. However, as pointed out by Flyvbjerg (2006:221) 'context-dependent knowledge and expertise lie at the very heart of expert activity'. The case study method provides intimate knowledge of different phenomena around us and thus taps into the fluid performance of tacit skills. In other words, case study is central to human learning. According to Flyvbjerg (2006:224) predictive theories and universals cannot be found in the study of human affairs because human beings change in time and space.

Another standard view on a case study research is that one cannot generalize on the bases of a single case study. The assumption of 'mutual influence among the many factors at work in any case discourages any attempt to reason about causes and effects or to generalize' (Keating and Della Pond 2008:30). However, as Flyvbjerg (2006:226) notes 'formal generalization is only one of many ways by which people gain and accumulate knowledge'. A purely descriptive, phenomenological case study without any attempt to generalize can certainly be of value in the collective process of knowledge accumulation. In-depth case study allows to collect a context-dependent knowledge necessary to complement large-N statistical analyses.

There are, however, also ways that allow to enhance the generalizability of a case study. For instance, the generalizability of a case study can be enhanced by strategic selection of case in relation to research objectives. The case for this study was selected because of its criticality. A critical case demonstrates that 'if it happens here in will happen anywhere' (Patton 1990:236

in Emmel 2014:). RME can be seen as a critical case or a 'least likely' case because of certain case characteristics. Firstly, as a new administrative body on a political-administrative scene, the agency has not yet managed to develop a distinct sense of purpose and a bureau-identity to accompany it in order to craft a distinct 'space' in the face of potential environmental threats to its existence (Eisenstadt 1959). Hence, it is reasonable to believe that the patterns of behaviour inside RME are still to a large extent in line with the national political and administrative cultures and beliefs. Moreover, the normative element of the Norwegian sector policy will most likely have a strong reinforcing effect on these patterns of behavior. Also, given the politicization of the energy sector due to its high importance for the Norwegian foreign policy, and security and defense policy it unlikely to expect that Norwegian political authorities will start to think and talk about energy in the exclusively economic terms. This will most likely make it more difficult for RME officials to develop any strong affiliation to the European level.

Even though critical cases do not allow for broad generalizations, they can still be used for making theoretical or analytical generalizations. Referencing existing studies that support or reject empirical findings of the study (Trondal 2007:1121) can also contribute to empirical generalizations. Hence, the explanations of the administrative behavior as derived from this empirical research may be valuable in other settings and organizations.

The last problem with the case study method is the issue of validity - how appropriate is the measuring instrument to the task at hand. The administrative behavior of RME is assessed on the basis of self-assessments or perceptions of individual actors working in the agency. This research draws inferences from individual observations to collective actors, from individual employee's role perceptions to the administrative behavior of the agency. One has to acknowledge that connection between role perceptions and behavior is not always straightforward. In particular, in contexts where individuals carry multiple roles which can be in conflict with each other, role orientations may be deficient predictors of behavior. However, given the overall difficulty to study the objective behavior inside organizations, the subjective representations can still be valid source of information.

The validity of findings can be enhanced by the use of more than one source of evidence. According to Yin (1995:92) the application of more than one source of evidence allows enhancing validity of finding by developing converging lines of enquiry, a process of triangulation. Triangulation allows mitigating potential problems of construct validity because multiple sources of evidence provide multiple measures of the same phenomenon. Document analysis were used to supplement and contextualize data collected during the interviews.

Documents were instrumental for understanding the historical roots of the events and conditions that impinge on the role perceptions and administrative behavior. The combination of evidence from the interviews and documents allowed creating a comprehensive picture of RME agency, how it came into being, how it operates, and why it operates the way it does.

It is worth mentioning some practical constraints experienced during this study. One of the main challenges was to gain access to the respondents. The problem of access to civil servants working in national administrations is a well-known problem in social sciences research. During the last years one can see a clear trend of declining response and participation rates in both quantitative and qualitative research (Bach et al 2020) while amount of research inquiries is constantly rising. In this particular case, the problem of access has been exacerbated by the Covid-19 pandemic at the time this research was conducted. The Covid-19 framed the possibilities for the overall research. By exacerbating capacity issues in all organizations, the Covid-19 pandemic has made access to RME agency difficult. It took a lot of time and effort to book an interview inside RME.

In the retrospect, the problems of access might have been exacerbated by the internal circumstances of RME in the aftermath of a politicized reform. When I embarked on this research in autumn 2019, RME had just been designated as a single regulatory authority for electricity and gas. The process of incorporation of the Third Energy Market Package and designation of the RME as a result of the pressures from the EU have been very politicized. Organizations that have recently undergone a politicized reform may be vulnerable and unwilling to collaborate with researchers. Undoubtedly, RME bears the marks of this process in some way or another.

My experience with searching RME officials for interviews indicates that capacity constraint was not the biggest issue for RME at the time. Indeed, when I personally called to RME officials, and asked them to participate in my research, I experienced that all four of them were interested and willing to contribute 45 minutes of their time to support my project. Moreover, with the submission extension, there was plenty of time to participate in the research. The resistance to my research seems to originate at the management level. I am convinced I would ended up with more respondents had the project not been stopped by the RME's management.

### **3.5 Ethical Issues**

In qualitative research, it is important to explore the ethical consequences of collecting personal experiences and opening those experiences to public scrutiny. The study followed the recognized guidelines for ethical principles and norms for research as recommended by the National Research Ethics Committee for the Social Sciences and the Humanities (NESH).

One of the most important ethical consideration in this study was to maintain the integrity of the interviewees both during the interview and afterwards, during interpretation and presentation of the results. Hence, sensitive information was treated with caution and all personal information such as name and title were anonymized. Project details were distributed to each interviewee and their consent was obtained prior each interview. Interviewees were also informed that they could at any time withdraw from participation in the research.

## CHAPTER FOUR: RESULTS

In this chapter results from the empirical research are presented. I start the chapter with a short introduction to both the Norwegian and EUs energy sector governance models. Introduction to RME, in particular its organization, duties and competencies, and operational environment are presented in section 4.3.1.1.

### 4.1 Norwegian Energy Sector Governance

Norwegian energy policy has a long tradition of strong public governance (Austvik and Claes 2011). The development of the electricity sector (since early 1900s) and, later the petroleum sector (since 1970s) has been ‘largely controlled by the state through public companies and strong regulations to ensure that employment, skills and value creation would come for the good of the whole nation’ (Austvik and Claes 2011:7). The comprehensive concession law system, ratified in 1917, ‘institutionalized national and community control over the national resources, and locked it in as the fundamental sector governance system’ (Olsen 2000:89). The concession system makes it necessary to purchase a concession (license) from the state in order to engage in any activity related to utilization of the natural resources. Depending on the sector, the concessions are usually issued for a period of 10-60 years. At the expiry of the concession period all industrial installations have to be returned to the state without compensation. The concession system with associated reversion to the state through escheat (*Hjemfallsvilkår*) contributes to the restructuring of ownership in the Norwegian energy generation. The Norwegian state plays the dominant role in energy production and transmission system. Norwegian municipalities, county municipalities and state together own about 90 per cent of the electricity production capacity in the country<sup>2</sup>. The state, through Statkraft SF and Statnett SF<sup>3</sup>, owns about 35 per cent of the electricity production capacity, and about 98 per cent of the electricity transmission network. When it comes to production and transmission system for natural gas, the state owns 51 per cent<sup>4</sup> of natural gas transmission network through its

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<sup>2</sup> <https://energifaktanorge.no/om-energisektoren/eierskap-i-kraftsektoren/>

<sup>3</sup> Statnett SF, a state-owned company, is a transmission system operator for electricity. It owns, develops and operates 11 000 km long transmission grid that connects producers with consumers throughout the country. Its responsibilities include ensuring sufficient capacity in the grid, and balancing of power in the grid by coordinating production and consumption. As a transmission system operator, Statnett SF is responsible for coordinating the operation of the power supply system, dealing with congestion and facilitating international electricity trade, and development and operation of cross-border interconnectors.

<sup>4</sup> [https://www.eia.gov/international/content/analysis/countries\\_long/Norway/background.htm](https://www.eia.gov/international/content/analysis/countries_long/Norway/background.htm)

ownership of Gassco AS - transmission system operator for natural gas, and 70 per cent of the production capacity through its partly ownership (67 per cent of the shares) of Equinor ASA. Since 1990s the framework for the organization of the energy sector in Norway has been provided by the Energy Act (LOV-1990-06-29-50). The Energy Act facilitates competition in energy production and wholesale and regulates sector activity through various licensing schemes, including construction and operation of electrical systems, district heating systems, power sales and monopoly control, foreign trade in power, metering, billing and invoicing, marketplace for physical power sales, system responsibility, rationing, delivery quality, energy planning, and power supply readiness (Austvik and Claes 2011).

The political framework and/or national policy goals for management of energy resources in Norway are set by the Parliament (Storting). The Government performs its executive authority with the help of the Ministry of Petroleum and Energy (MEP) which has the overall responsibility for the management of energy resources in Norway. It is the Ministry's task to ensure that the resource management is carried out in accordance with the guidelines provided by the Parliament, and the Government. Norwegian Water Resources and Energy Agency (NVE) is managing national energy resources on behalf of the Ministry.

#### **4.1.1 Norwegian Water Resources and Energy Agency (NVE)**

NVE is a professional agency subordinated to the Ministry of Petroleum and Energy. NVE's history can be traced back to 1847 when an early ministerial office 'Canal-Directionen' was reorganized into a separate agency 'Kanalvesenet'. This institution became instrumental for 'a massive state development of hydropower to provide cheap energy for development of large-scale energy intensive industry sector, in particular the chemical and metallurgical industries' (Olsen 2002). NVE, as we know it today, was established in May 1921 when the 'Electricity Commission', the 'Waterway Commission', and the agency 'Vassdragsvesenet' were merged together in one agency. This merger aimed to simplify the complex administration of the energy sector that existed prior 1921. The agency has headquarters in Oslo, Norway, and five regional offices: Region North in Narvik, Region Central Norway in Trondheim, Region West in Førde, Region South in Tønsberg and Region East in Hamar.

The distribution of responsibilities and tasks between NVE and the MEP is laid down in several laws and regulations. As a professional agency, NVE has a central role in performing technical studies and assessments and providing advice to the Ministry, monitoring energy and power

supply, making decisions and managing installations related to the energy and power system. NVE's mandate is to ensure an integrated and environmentally sound management of the national water resources, promote efficient energy markets and cost-effective energy systems, and contribute to efficient energy use. The agency plays a central role in the national flood contingency planning and has overall responsibility for maintaining national energy supply. It is heavily involved in research and development, and plays important role in national and international climate research. NVE is a national center for expertise in hydrology.

Since the Energy Act entered into force in January 1991, NVE has been functioning in the regulatory role for the electricity sector. NVE's tasks and competencies in this area are subject to the Energy Act regulations and/or individual delegation decisions from the Ministry. NVE supervises 23 different subject areas within watercourses, energy supply and energy labeling / energy use. In particular, NVE has been monitoring compliance with rules and standards in two important areas of the energy system - the network security and reliability (system responsibility) and quality of service and supply (quality of supply). The agency has also been delegated competence to make and change regulations pertaining to these areas. In particular, NVE developed and issued regulations for network regulation and tariffs, metering and settlement, billing, supplier switching, financial and technical reporting, neutrality and non-discrimination and, and obligations of the transmission system operators (TSO).

The Ministry governs NVE through annual letters of allocation. In these the Ministry specifies goals, priorities and management parameters for NVE operations. The Ministry also functions as an appellate body for the regulatory decisions made by the NVE. In particular, the Ministry can perform a judicial review of NVE's decisions, and add guidelines/instructions on how these regulations shall be enforced.

NVE's operations are organized in six departments: Energy Systems, Licensing, Supervision and Contingency Planning, Hydrology, Avalanche, Landslides, Flood and River Management, and Electricity Market Authority. Each of these departments is responsible for its own task portfolio and is managed by a director who reports to NVE's director general. The supervisory tasks are concentrated in three of these departments: Energy Systems, Supervision and Contingency Planning, and the Electricity Market Authority. In NVE, the supervisory tasks are closely linked to tasks within regulatory development, guidance and follow-up of the sector actors.

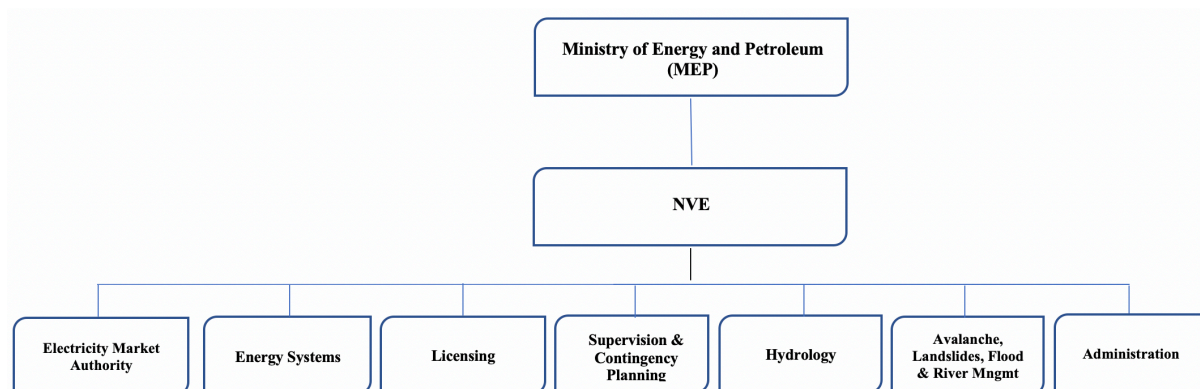


Figure 1: Norwegian Sector Governance

## 4.2 Energy Sector Governance in Europe

Energy policy is an important area of cooperation for the European Union. Article 194 of the Treaty on the Functioning of European Union provides legal basis for the competencies of EU in the field of energy. According to Article 194 TFEU, the main aims of the EU's energy policy are to (1) ensure the functioning of the energy market, (2) ensure security of energy supply in the Union, (3) promote energy efficacy and energy saving, (4) the development of new and renewable forms of energy, and (5) promote the interconnection of energy networks. To complete construction of the integrated energy market, EU is working hard at unifying the diversity of national regulations through harmonization (Scharpf 1994) and producing market liberalization directives and regulations. Between 1996 and 2016 EU has adopted four consecutive legislative packages (First Energy Market Package 1996, Second Energy Market Package 2003, Third Energy Market Package 2009, and Fourth Energy Market Package 2019) to address market access, transparency and regulation, consumer protection, independence of regulatory authorities, supporting interconnection, energy efficiency, renewable energy, security of electricity supply and governance rules for the Energy union<sup>5</sup>. These packages include EC directives and regulations attempting to regulate all matters of internal energy market in the most comprehensive fashion possible and down to smallest detail.

Starting with the Third Energy Package, the development of the internal energy market in Europe has been enabled by the so-called network codes. A network code is a set of technical rules addressing specific problems of market integration and operation. One important feature

<sup>5</sup> <https://www.europarl.europa.eu/factsheets/en/sheet/45/internal-energy-market>



of network codes is that they are very detailed. Hence, once they are developed and accepted by the Commission they allow less flexibility in the implementation phase than, for example, a guideline. To date four gas network codes and 8 electricity network codes<sup>6</sup> are adopted. The preparation of network codes involves the European Commission, ACER, and the European Network of System Operator of Electricity/Gas (ENTSO-E/G). Each year, the Commission identifies areas for network code development. Following the Commission's request, ACER prepares the framework guidelines/key principles for the development of the network codes. Based on these guidelines ENTSO should prepare a draft of the code within the period of 12 months and submits it to ACER for review. ACER reviews/amends drafted network codes prepared by ENTSO, and sends these to the Commission with a recommendation for adoption. The draft becomes a network code once it gets approved by a committee composed of national experts through the comitology procedure. The whole process of drafting and approval stage shall be performed within the 3-year work plan agreed between ENTSO-E/G, ACER and the EC. During the drafting process a number of workshops / informal consultations may be held with stakeholders and NRAs, with more formal consultations usually held once the draft proposal of the network code is available and approved. Network codes are usually approved as Commission regulations, which means that they are legally binding and come into force 20 days after publication in the Official Journal of the European Union.

To achieve its objectives and complete the internal energy market, EU relies on the trans-European energy network. This network represents cooperation between several institutional actors, like National Regulatory Authorities (NRAs) and Transmission System Operators (TSOs) taking place within a Community structure coordinated by EU Agency for the Cooperation of Energy Regulators (ACER)<sup>7</sup>. This network aims to pool administrative resources through intensive horizontal and vertical interaction and knowledge sharing between EU-level and subnational actors and intra-network task specialization (Veslund 2017:62).

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<sup>6</sup> Four (4) of these are guidelines (Terms and Conditions or Methodologies).

<sup>7</sup> The adoption of the Fourth Energy Package, Clean Energy Package, changes existing process of development of network codes and guidelines. The strong role of ENTSOs in the drafting of network codes is reduced and substituted by stronger presence of Distribution System Operators (DSO). The role of ACER in development phase is expected to increase. The adoption process for both new network codes and guidelines is also changed. ACER now directly decides on the methodologies with a pan-European scale (former 'all NRA' decisions). Regarding network codes and guidelines, the Clean Energy Package distinguishes between the adoption of network codes and guidelines as implementing or delegated acts. Depending on the type of act, the European institutions and stakeholders have different rights and possibilities to intervene in the adoption process.

#### 4.2.1 National Regulatory Authorities

A requirement for Member States to establish regulators with specific competencies was introduced by the Second Energy Market Package (ref. Directive 2003/54/EC). From the directive it followed that:

*‘The Member States should cooperate closely, eliminating obstacles to cross-border exchanges of electricity and natural gas with a view to achieving the objectives of Community energy policy’*

The Third Energy Market Package (2009) expanded NRAs duties and ‘obliged Member States to enact measures that would guarantee NRAs the ability to carry out their regulatory functions effectively’ (Fresa 2015). EUs directives establish distinctive roles for NRAs, and ensure that they remain free from the instruction of their respective governments. From Directive 2009/72/EC follows that:

*‘Energy regulators need to be able to take decisions in relation to all relevant regulatory issues if the internal market in electricity to function properly, and to be fully independent from any other public or private interests. This precludes neither judicial review nor parliamentary supervision in accordance with the constitutional laws of the Member States’*

The NRAs are granted a general competence, and the resulting obligation, as regards ensuring general compliance with European Union law, as well as compliance with and implementation of legally binding decisions of ACER and of the Commission. The objectives of the regulatory authorities, their duties and powers are outlined in Article 36 (general objectives) and 37 (core duties) of the Electricity Directive 2009/72/EC and Article 40 (general objectives) and 41 (core duties) of the Gas Directive 2009/73/EC. These articles are complementary, hence while performing their core competencies and duties NRAs must also ‘take all reasonable measures to implement the list of objectives’<sup>8</sup> assigned to them. In particular, the NRAs core monitoring duties include (1) monitoring of tariffs for access to national transmission or distribution networks; (2) monitoring of the competition, market transparency and unbundling requirements; (3) monitoring compliance of transmission and distribution system operators with their obligations under the directives; (4) monitoring and assessment of investment plans of the TSOs; (5) monitoring of compliance with and reviewing the past performance of network

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<sup>8</sup> Commission Staff Working Paper of 22 January 2010: Interpretative Note on Directive 2009/72/EC Concerning Common Rules for the Internal Market in Electricity and Directive 2009/73/EC Concerning Common Rules for the Internal Markets in natural Gas, p.12.

security and reliability rules and setting or approving standards and requirements for quality of service and supply; (6) monitoring of the consumer protection measures.

Moreover, there are three core areas where NRAs shall be able to pre-regulate. NRAs shall be able to fix or approve sufficiently in advance the methodologies used to calculate or establish the terms and conditions for:

- 1) connection and access to national networks, including transmission and distribution tariffs or their methodologies
- 2) the provision of balancing services
- 3) access to cross-border infrastructure including the procedure for the allocation of capacity and congestion management.

These terms and conditions (methodologies) are developed by the transmission system operators, and approved by NRAs. The pan-European methodologies require approval by all NRAs while regional/national methodologies require approval from NRAs of the involved countries.

Furthermore, the directive mandates Member States to grant NRAs powers to make binding decisions on electricity undertakings, authority to carry out investigations into the functioning of the electricity markets, authority to ask electricity undertakings to disclose any information relevant for the fulfilment of their tasks, and powers to impose effective and proportionate penalties on electricity undertakings not complying with their obligations under the directive.

Most NRAs cooperate and exchange information through the Council of European Energy Regulators (CEER) cooperation platform. CEER is a Belgian non-for-profit association established in 2003. CEER advises and assists the European institutions on regulatory issues, prepare the implementing measures, foster and review common and uniform day to day implementation and application of EU legislation.

#### **4.2.2 Transmission System Operators**

Other important actors within the European energy governance structure are Transmission System Operators (TSO). TSOs are responsible for the wholesale transfer of electricity or natural gas from the point of production to the point of distribution.

TSOs operate within their own networks, the European Network for Transmission System Operators for Electricity (ENTSO-E), and the European Network for Transmission System Operators for Gas (ENTSO-G). Both networks were established in 2009 by the EU's Third Energy Market Package 'in order to ensure optimal management of the electricity / natural gas transmission network and to allow trading and supplying electricity and gas across borders in the Community', and are coordinated by EU agency ACER. ENTSO-E consists of 42 transmission system operators (TSO) from 32 countries across Europe. Some countries have several certified TSOs while Norway has only one - Statnett SF. ENTSO-G consists of 44 members, 3 associated partners, and 9 observers (including Norwegian Gassco AS). To become a TSO, a company has to be certified by the NRA under close supervision from the Commission.

ENTSO-E/G tasks and responsibilities include development of network codes and guidelines, cross-border infrastructure planning, coordination of grid operation through information exchange, and preparation of forecasts for electricity/gas generation, and supply and demand. ENTSO-E/G shall also monitor and analyze the implementation of network codes and their impact on the market integration process.

#### **4.2.3 Agency for the Cooperation of European Energy Regulators (ACER)**

ACER agency was established under the Third Energy Market Package<sup>9</sup> to fill in the regulatory gap at Community level, and to contribute towards the effective functioning of internal markets of electricity and natural gas. Its powers and tasks are enshrined in EU laws adopted by the Member States and the European Parliament. From ACER's foundational Regulation (EC) No 713/2009 it follows:

*'The Agency should ensure that regulatory functions performed by the national regulatory authorities in accordance with Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas are properly coordinated and, where necessary, completed at the Community level'.*

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<sup>9</sup> Ref. Regulation (EC) No 713/2009 of the European Parliament and of the Council establishing an Agency for the Cooperation of Energy Regulators of 13 July 2009.

Thus, ACERs main role is to ensure regulatory harmonized implementation of EU energy policy across member and affiliated states through surveillance and coordination of National Regulatory Authorities (NRAs) and transmission system operators (TSOs) engaged through ENTSO-E and ENTSO-G networks. In cooperation with the Commission, ACER shall monitor that these actors exercise their functions in accordance with the Electricity and Gas Market Directives. ACER have an advisory role vis-à-vis the Commission, the Council and Parliament in the development of the internal energy market regulations in Europe. The agency also acts in advisory role and issue recommendations to NRAs on the correct application of EU regulations in specific cases.

Over the years, ACERs competencies have been gradually strengthened by the EU Commission in order to make the agency more capable to tackle problems arising from fragmented regional/cross-border oversight, and associated risk of divergent decisions and unnecessary delays. In addition to coordination and surveillance functions, ACER has got a key role to play in the development of new regulations in the form of network codes and has been granted decision-making authority in those areas where fragmented national decisions of cross-border relevance are likely to lead to problems for the internal energy market. In particular, ACER can make binding decisions in the event of disagreement between the national regulatory authorities concerned or if they jointly request such decision. ACER's decisions have to be approved by the board of regulators which adopts decisions by a two-thirds majority. Today, ACER's decision-making authority covers technical issues of cooperation between NRAs (pursuant to Article 7 of the Regulation 713/2009/EC), terms and conditions for access to and operational security of cross-border infrastructure (Article 8 of the Regulation 713/2009/EC) or disagreement over the processing of applications for regulatory exemptions for new foreign connections (Article 9 of the Regulation 713/2009/EC). At the request from the Commission, ACER can develop a network code in line with the framework guidelines when ENTSO-E/G fails to develop a network code through the comitology procedure within 12 months period.

ACER agency has its own administration and management. It comprises an administrative board, a board of regulators, a director and a board of appeal. ACER's administrative board consists of nine representatives from the member states, two members of which are appointed by the Commission, two members are appointed by the European Parliament, and five members are appointed by the Council on a rotation basis. The board of regulators comprises senior representatives of the regulatory authorities, and one non-voting representative from the

Commission. The director is appointed for five years period by the administrative board from a list of candidates proposed by the Commission. The Board of Appeal is part of ACER but it is independent from its administrative and regulatory structure. It comprises six members selected from current or former senior staff of the national regulatory authorities, competition authorities, or other national or Community institutions.

At the operational level, the Agency is divided into five departments (Corporate Services, Electricity, Gas, Market Surveillance and Conduct, Market Integrity and Transparency), and four horizontal clusters (Brussels Liaison Office, Legal Services, Operational IT/Security, Data Excellence) which have a central role in providing key support functions to the whole Agency in fulfilling its mandate, objectives and goals. A large part of the technical work in ACER is carried out in working groups. There are currently five working groups (Monitoring, Integrity and Transparency, Electricity, and Gas) in ACER. These groups bring together representatives of ACER, national regulators and the European Commission. The ACER working groups' chairs and vice-chairs are senior representatives of national regulatory authorities.

#### **4.3 Norwegian - EU Energy Cooperation**

Norway's and EU's energy sector policy models meet through the Agreement on the European Economic Area (EEA Agreement) both when it comes to policy form and process (Austvik and Claes 2011). The institutional framework of the EEA consists of two pillars and is often referred to as the 'two-pillar structure'. The EU and its institutions constitute one pillar (EU bodies), while the EEA EFTA States<sup>10</sup> and their institutions constitute the other pillar (EEA EFTA bodies), mirroring those of the EU<sup>11</sup>. No EU's directives and regulations have direct legal effect in Norway until these are accepted by the EEA Joint Committee and incorporated into the EEA Agreement. However, as no legislative powers are transferred to EEA Joint Committee from the contracting parties, the decisions made by the EEA Joint Committee can only be binding after they have been approved by parliament of each state subject to the agreement.

The amendment of the existing national law or adoption of a new law due to the incorporation of the EEA/EU acts requires parliamentary approval. Between 1991 and 2020 the Government has submitted 289<sup>12</sup> propositions regarding EU legal acts to the Storting. To comparison, more

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<sup>10</sup> Iceland, Liechtenstein and Norway

<sup>11</sup> <https://www.efta.int/sites/default/files/documents/eea/eea-institutions/The-Two-Pillar-Structure-Surveillance-and-Judicial-Control.pdf>

<sup>12</sup> <https://www.regjeringen.no/no/dokument/prop/id1753/?ownerid=&sesjon=&topic=1151&term=>

than 11,000<sup>13</sup> EU legal acts (directives and regulations) have been incorporated into the EEA Agreement and transposed into the Norwegian law since the agreement entered into force in 1994. This gap indicates that most of the EU legal acts are transposed into the Norwegian law through amendment and/or adaptation of the existing law to EU regulations. Norway also surpasses many member states in terms of its transposition efficiency. In 2019, Norwegian transposition deficit score was 0.3% compared to the EU average of 0.6%<sup>14</sup>, which means that of 23 Single Market-related directives Norway has transposed the majority of these within the shortest timeframe. Conformity deficit was rated to 0% which gave Norway an overall stable result and perfect score.

Current practice of incorporation of the EU legislation has received several criticisms. For instance, Jevnaker (2019) claims that current practice has some obvious disadvantages as it contributes to late political anchoring for the EU legislation that is to be incorporated in Norway, depriving national political actors to influence the outcome of the legislation in any way. In 71 % of the cases, the Parliament was presented with a piece of final EU legislation for approval/disapproval in the aftermath of both the EU process and EEA process (Jevnaker 2019).

#### **4.3.1 New Sector Governance Model in Norway**

The incorporation of EU's energy market packages into the EEA Agreement (1996, 2005, 2017) has changed resource management, licensing policy and market conditions in the Norwegian energy sector (Austvik and Claes 2011). What started as a simple, yet ambitious, market liberalization project has over the years evolved into a more comprehensive energy market policy. The Third Energy Market Package directives supplement the competition policy with both 'infrastructure packages and political relations with transit and producer countries' (Austvik and Claes 2011:17), demonstrating a great agreement within EU that more and different type of policy than just the increased competition policy is needed to develop a more mature internal energy market.

As a result of the incorporation of the directives and regulations of the EU's Third Energy Market Package into the Norwegian law, two new legal bodies had to be introduced in the traditional sector governance model. The European law mandated introduction of a single

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<sup>13</sup> <https://www.regjeringen.no/no/tema/europapolitikk/fakta-115259/ofte-stilte-sporsmal/id613868/#forordning>

<sup>14</sup> [https://ec.europa.eu/internal\\_market/scoreboard/performance\\_by\\_member\\_state/no/index\\_en.htm](https://ec.europa.eu/internal_market/scoreboard/performance_by_member_state/no/index_en.htm)

regulatory authority with legal distinction and functional independence from the national government, and any other public body. This single national regulatory authority had to be entrusted with all regulatory duties as outlined in the directives and regulations of the Third Energy Market Package. The Norwegian Energy Regulatory Authority (RME) was designated by the MEP as a single national regulatory authority for the electricity and gas market in November 2019.

Concomitantly, the Energy Appeals Board was established to deal with complaints on the individual decisions made by RME. Hence, the Ministry’s role as an appellate body for NVE’s regulatory decisions will not be applicable for regulatory decisions made by RME. The board consists of 5 members and is located in Bergen. The members of the Energy Board of Appeal are appointed by the Ministry, however by law they are ensured the right to independent and instruction-free operation.

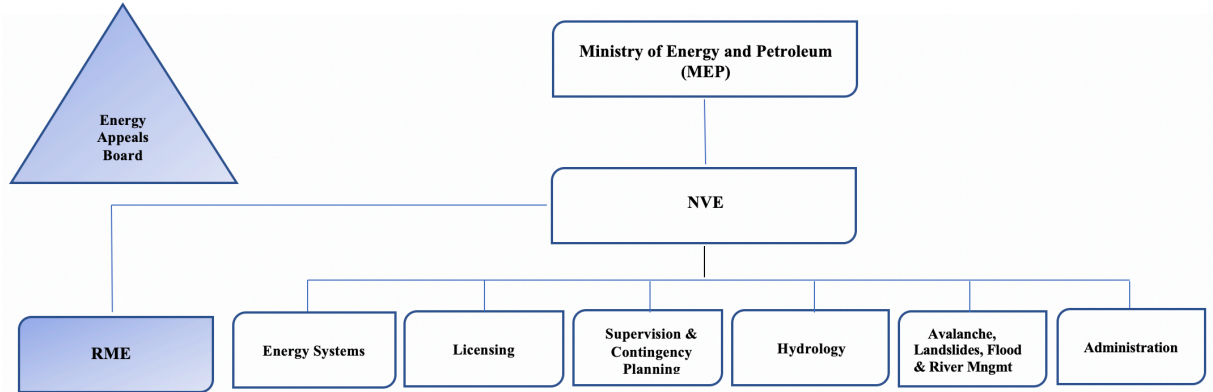


Figure 2: New Sector Governance Model.

**4.3.1.1 Energy Regulatory Authority (RME)**

RME was established in November 2019 following the implementation of the Third Energy Market Package into the Norwegian law. Its legal statues can be found in § 2-3 of the Energy Act and § 4 of the Natural Gas Act, cf. the Natural Gas Regulation § 1- 4. The role and competencies of RME are formalized and specified in the FOR-2019-10-24-1413 ‘Regulation of grid operations and energy market’ (NEM)<sup>15</sup>. The main statutory objective of RME is to:

*‘promote social and economic development through efficient and environmentally sound energy production, and efficient and reliable transmission, distribution, trade and use of energy.’<sup>16</sup>*

<sup>15</sup> FOR-2019-10-24-1413 of 01.11.2019  
<sup>16</sup> <https://www.nve.no/norwegian-energy-regulatory-authority/>



The RME agency has been entrusted with duties related to the monitoring and regulation of the electricity and gas markets. Its main role is to ensure competitive, non-discriminatory and efficient functioning of electricity and gas markets by monitoring market players' compliance with obligations arising not only from the national legislation but also from the EU legislation, in particular the directives and regulations of the Third Energy Market Package. Some of the important tasks in this regard are to ensure that there are no cross-subsidies between transmission distribution and supply activities in the market, and monitoring of the competition, market transparency and unbundling requirements.

To perform its duties under the directives, RME has been granted some individual decision-making competencies. In particular, RME can make binding decisions in individual cases when it comes to: supply obligation terms of license holding companies (§3-1); connection and access for new consumers/producers to national networks (§3-2; 3-3); incomes from the sale of electrical energy (§4-5); terms of access to cross-border connections (§4-11); terms for organization and operation of wholesale market (§4-9); terms and conditions for TSO's system responsibility (§6-1) and certification of transmission systems operators (§7-1). Moreover, RME can impose effective, proportionate and dissuasive penalties on electricity undertakings which fail to comply with their obligations (§8-3). RME does not have authority to grant international concessions but it can establish and/or approve agreements, terms or methods for connections within the framework of the concession terms stipulated by the Ministry. Decisions made by RME can only be appealed to the Energy Board of Appeal. Neither government nor the Ministry can review, suspend or veto RME decisions.

While RME has been granted some individual decision-making competencies, its competences (or the competences that the Electricity Market Authority had) to make regulations were to a large extent withdrawn. In practice, there is only one area where RME can make (issue) regulations. In particular, RME can fix or approve the methodologies or the terms and conditions underlying the calculation of the tariffs (as stated in §8-5, NEM).

Other tasks that follow from the directive include compliance with and implementation of legally binding decisions from ACER and/or the Commission. In dispute cases where ACER had to approve terms and conditions/methodologies for either the connection and access to national networks, provision of balancing services, and/or access to cross-border infrastructure, the European Surveillance Authority (ESA) shall make a corresponding decision under the

provisions of the EEA Agreement. The ESA's decisions are directed to RME for national implementation.

RME participates in the European network of energy regulators coordinated by Agency for the Cooperation of European Energy Regulators (ACER). In fact, RME has a legally binding obligation<sup>17</sup> to closely cooperate and disclose information with other NRAs and ACER, in particular on the cross-border issues. RME participate fully in ACER's regulatory board, the administrative board, and the preparatory bodies such as working groups and committees. When participating in these bodies, RME does not have a right to vote. As a national regulator, RME has the obligation to report to Member States and ACER, and supply them with market information on production, transmission and consumption. RME prepares an annual report to the Ministry, the ACER and the EFTA Surveillance Authority (ESA) on its activities and fulfilment of its duties under Article 37 of the Directive 2009/72/EC. RME is also active in the CEER and NordREG networking platforms. At the national level, RME collaborates with other authorities in the energy market, in particular the Norwegian Competition Authority (Konkuransetilsynet), the Finance Authority (Finanstilsynet) and the Consumer Authority (Forbrukertilsynet).

Amidst its responsibilities under the directives, RME also acts in an advisory role to the Ministry at the national level.

*'The regulatory authority should be able to assist the department with professional expertise. For example, it may be a matter of evaluating proposals for regulatory changes, which are later adopted by the Ministry. RME should also be able to propose changes to the Ministry on its own initiative' (Prop. 5 L 2017–2018:20).*

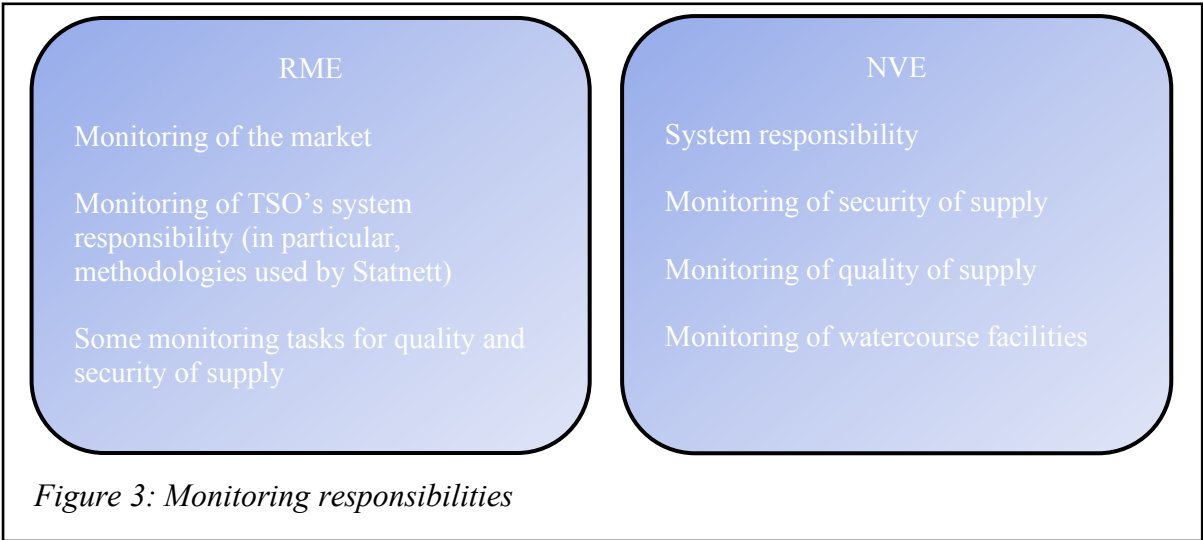
To perform its advisory role, RME shall have a good overview of the developments in the European energy system, the development of policy and regulations in the EU, and how these affect Norway; it shall assist the Ministry in assessing EU regulations, provide professional advice, and prepare suggestions for change of national regulations.

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<sup>17</sup> Prop. 4 S (2017–2018).

**4.3.1.1.1 Formal Organization**

RME is organized as a state administrative body and its activity falls under the Public Administration Act. Today, RME is organized as a separate unit within NVE (See figure 3). Its predecessor, the Electricity Market Authority, was established within NVE in January 2013 to engage with the regulatory tasks that would follow from the incorporation of the EUs Third Energy Market Package<sup>18</sup> into the EEA Agreement and the Norwegian law. In January 2018, the Electricity Market Authority was renamed into the Norwegian Energy Regulatory Authority (RME). Upon designation of RME as the regulatory authority in November 2019, it started to operate as a separate unit with legal distinction and functional independence from NVE. All tasks related to market regulation and monitoring under the directives and regulations of the Third Energy Market Package were segregated into this unit, and became its main area of expertise.



To secure continuation of the current practice of the sector governance, whereby the Ministry remains in control over the security and quality of supply issues, and overall development and maintenance of the energy system, the Ministry and the Norwegian Parliament chose not to entrust monitoring of the system security issues to RME. Hence, the monitoring of matters of importance for the operation and development of the national energy system, including the balance of supply and demand on the national market, the level of expected future demand and

<sup>18</sup> Ref. Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity  
 Ref. Energy Act, Regulation 714/2009 on cross-border power trading and Regulation 713/2009 on the Agency for Regulatory Authorities in the field of energy.

additional capacity being planned or under construction, the quality and level of maintenance of the networks, and the measures to cover peak demand and to remedy the loss of power supply remained in the NVE. The award of licenses for watercourse and energy facilities, and monitoring of watercourse facilities, floods and landslides also falls under NVEs responsibilities.

To ensure functional independence of RME in carrying out its regulatory tasks independently from NVE, the internal collaboration and information exchange routines have been formalized. In particular, internal rules and procedures specify internal case processing routines, and interaction and coordination patterns between RME and NVE officials to ensure independent case processing. These also dictate that RMEs officials cannot engage in other and/or parallel activities inside NVE. The RME shall have competence to carry out its tasks and fulfill the responsibilities emanating from the Third Energy Market Package independently.

RME has also been allocated individual financial resources. The Ministry issues a separate annual letter of allocation to RME which is approved by the Parliament. The allocation letter sets agency’s financial framework, specifies goals for the next year, and indicates the reporting requirements and deadlines. In 2020 RME has been allocated a budget of 5.3M euro.

Internally, RME is organized in five sections: (1) network regulation, (2) wholesale market, (3) retail market, (4) economic regulation, and (5) energy market law, where each section handles individual task portfolio/focus area.

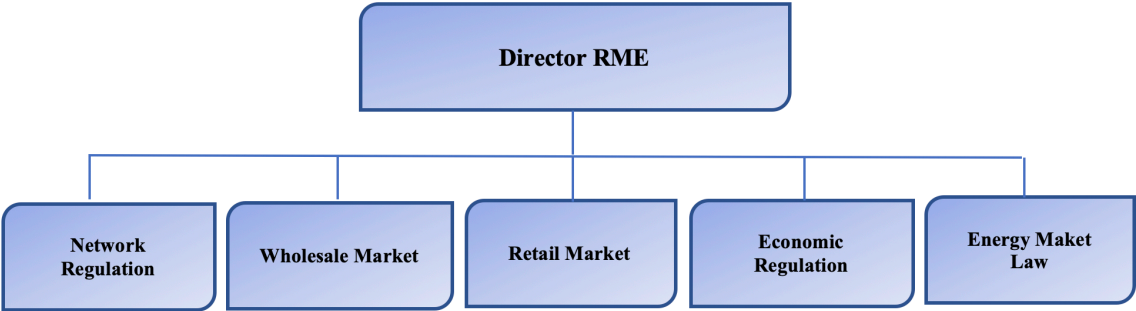


Figure 4: Internal organization of RME department

For instance, the wholesale market section is responsible for following the integration of system operations and market, and monitoring of the regulations in this area. The sections’ activities

include measurement and calculation of electrical energy, issuance of sales licenses, monitoring of organizational development in the industry and enforcement of rules for market behavior. This section is actively involved in the Nordic and European cooperation. The section for economic regulation regulates grid companies' revenues, license holder duties, and consumer compensation claims. The section controls technical and financial data from the license holders, monitors grid companies to prevent cross-subsidization and ensures that correct data is collected for revenue regulation. It is involved in the development of network codes and methodologies in connection with its activities devoted to cost-effectiveness of the grid companies and revenue regulations.

The section for network regulation regulates grid operations (electricity transmission and distribution) in accordance with the provisions of the Norwegian legislation, in particular the Energy Act and associated regulations. This include grid tariffs of network services and conditions for network connection of production and consumption. The section is also responsible for monitoring compliance with regulations on quality of supply and system responsibility, including monitoring of Statnett's exercise of system responsibility. It is responsible for processing complaints about tariffs, quality of supply and system responsibility, as well as further development of the regulations in these areas. The section includes work on collecting and publishing grid tariffs for the country's grid companies, preparation of annual power interruption statistics, and an annual report on the operation of the power system. The section conducts inspections of the grid companies.

Each section is managed by a section manager whose main responsibility is to manage section's task portfolio and staff, and represent the section in the management meeting. RME is managed by a director and a management board, which consists of managers for each of the five sections. This suggests the unity of command structure where the chain of command goes from the director, through the section managers down to each official at the bottom level. RME's director and members of the managements board are appointed for a fixed term of five to seven years which can be renewed once. As RME is still part of the larger NVE organization, RME director has a reporting line to the director-general of the NVE. Currently there are 63 officials within RME with various backgrounds in law, economy, and engineering science. These officials cannot work in other parts of NVE while holding a position in RME.

RME shares premises with NVE's head office in Oslo. When deciding on RME's location, both the Ministry and NVE agreed that co-location of RME and NVE would be beneficial as it would allow to keep professional environment and minimize competence-related challenges. This decision may have some connection with the assessment made NVE upon request from the Ministry in 2017. In 2017, the Ministry asked NVE to perform an assessment of the possibility to relocate the regulatory tasks in the NVE from its head office in Oslo to several regional offices. The internal assessment made by NVE at that time revealed that the relocation of tasks performed by the Electricity Market Authority to a regional office would not be beneficial as the regulatory tasks performed by this department formed an integral part of the agency's overall management tasks. As the tasks performed by the Electricity Market Authority ranged professionally very widely, from socio-economic assessments related to electricity exchange and system operation, control of grid companies and market monitoring, to technical assessments of quality of supply in the low voltage grid, it was necessary to keep the monitoring tasks performed by this department together with the tasks pertaining to overall sector development.

The new sector governance model, as described above, builds on one important assumption that the Ministry can still exercise political control over the sector through general sector policy framework. From the Prop. 5 L (2017-2018) it follows that:

*'The Ministry does not consider the directive to prevent the authorities from providing general guidelines regarding political objectives, cf. Article 35 no. 4 (b). It also appears in the Commission's interpretation note to the Third Electricity Market Directive of 22 January 2010 that the Government's task is to prepare the political framework. Security of supply, renewable energy and energy efficiency are mentioned as examples in this connection. The Ministry does not consider the room for maneuver to issue general guidelines based on the political objectives to be limited to only these areas' (ibid.,20).*

...

*'The regulatory authority operation shall not be cut off from other social institutions and interests. The regulatory authority shall comply with current political guidelines and regulations' (ibid.,20).*

This assumption may be correct; however, it may also represent a 'one-sided Norwegian interpretation of the directives' ('Nei til EU' in Prop. 5 L 2017-2018:19). Indeed, even though

the directives do not directly deprive the government the possibility to determine the policy framework within which NRA must operate, they expect that these general policy guidelines are consistent with the European Union law. As indicated in the Commission Staff Working Paper (2010:6): ‘The NRA will have to be created in accordance with the constitutional and administrative rules of each Member State *insofar as they are consistent with European Union law*’. The establishment of ACER at the EU level and the NRAs for enforcement of EU legislature in each member- and affiliated state cements EU’s commitment to internal energy market project. From the perspective of EU, the NRAs shall promote a competitive, secure and environmentally sustainable internal market for electricity and gas *in the Community*. Hence, it is reasonable to assume that EU institutions will do everything in their power to ensure that NRAs are both organized and operate in accordance with their European mandate. Indeed, the way RME is organized has already attracted scrutiny from the European level. In its letter to the Ministry of 16 October 2020, EFTA Surveillance Authority<sup>19</sup> (ESA) asked the Ministry to provide a complete account for how the independence, impartiality and transparency of the Energy Regulatory Authority had been ensured in practice, given RME’s current organization inside NVE and administrative subjugation to the Ministry. The ESA also asked the Ministry to justify how current allocation of competences between RME, NVE, the Ministry and TSOs ensured independence of RME. Moreover, ESA had a number of questions related to the tasks and authority of RME, in particular whether RME had been granted authority to carry out investigations into the functioning of the electricity markets, and settle disagreements on terms for connection to and use of the grid. At the end of the letter, ESA also questioned several provisions in the Norwegian legislation. Hence, it remains to be seen if ESA and the EU Commission would be satisfied with the justifications provided by the Norwegian government. The future of the RME agency may very well depend on the outcome of this process.

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<sup>19</sup> <https://www.stortinget.no/no/Hva-skjer-pa-Stortinget/EU-EOS-informasjon/EU-EOS-nytt/2020/eueos-nytt---4.-november-2020/esa-stiller-sporsmal-om-uavhengigheten-til-rme/>

## 4.4 Results

In this section results from the empirical study are presented. One of the main goals of this research was to understand role perceptions of officials working in the Energy Regulatory Authority (RME). The results as presented below are based on the data from three semi-structured interviews.

### 4.4.1 Role Sets within RME

It was theorized that RMEs multiple institutional embeddedness led to multiple behavioral logics within RME. In particular, it was argued that RME officials had to balance expectations of the following three roles - departmental, professional and/or supranational. Each of these roles contains a set of affiliated norms, values and beliefs that in the end of the day impact the administrative behavior / decision-making dynamics. The departmental role orientation implies that RME officials emphasize bureaucratic norms and values, they coordinate tasks and make decisions in accordance with the formalized roles, routines and rules prescribed by their organization. The professional role conception stresses norms and values of scientific/professional correctness and the power of the better argument, and implies that RME officials are guided primarily by these considerations rather than the pre-existing political interests or preferences in their decision-making. The supranational role conception emphasizes feelings of loyalty and allegiance to the supranational norms, interests, policies and politics. Decisions are expected to emphasize utilitarian benefits, collectivism, and demonstrate favorable attitude towards integration project as a whole.

Based on the empirical data collected in this study, two role conceptions have strong subjective relevance for RME officials. One of these roles is the professional role. All interviewees stressed the importance of values of science and professionalism as *modus operandi* inside the agency. When reflecting on the agency's role and purpose, one RME interviewee put it like this:

*'What we work with, both on the basis of national legislation  
but also, on the basis of EU legislation, are, to a large extent, very technical issues.  
Our task is to solve the practical questions, not the political questions'.*

The dedication to profession is also reflected in the manner some interviewed officials view their occupation/field as significant to the public good. One official puts it like this:



*'We work with many complex and challenging issues. Current climate policy, dictating that coal is to be phased out and replaced by the wind and solar energy, requires significant redesign of the energy system and market to ensure a stable power supply to all customers in the Nordic region and Europe. We have an important role to play in this process by developing technical regulations on how this energy system will look like and work in the future.'*

The overall complexity of the field in which RME officials operate makes expertise of professional personnel into a most needed and indispensable attribute in the agency. It is because of their expertise RME, alike all other public agencies, is able to influence current policy development. Indeed, one has to have good knowledge of the field and one's organization in order to carry weight in the policy discussions.

The importance of norms of scientific and professional correctness is also evident in the internal decision-making. When asked to reflect on the main logics underlying organizational decision-making, all interviewees expressed that the decision-making behavior within RME was strongly influenced by the professional concerns. Here in the words of one of the interviewees:

*'Regulatory proposals that we send out for either consultation or approval represent mostly what we recommend and believe from a professional point of view.'*

However, professional decision-making is not completely deprived of political sensitivity. All three interviewees emphasized that the decision-making within RME was intricate, and its final result could be best described as a trade-off between several conflicting interests.

*'The decisions are largely based on the professional considerations, but then one must also weight between pure professional considerations and political considerations. It is rare that decisions are exclusively guided by and based on one consideration. As a rule, decisions represent a trade-off between different considerations'.*

To support their argument all interviewees referenced to the recent case on the subject of grid rental where RMEs initial regulatory proposal had to be altered to make it more politically

acceptable. As a result, the regulatory proposal that was accepted by the Ministry saw rather differently from the one proposed by RME.

The second role that occupies strong position in the hierarchy of salience among RME officials is the departmental role set. The departmental role implies that RME officials coordinate their tasks and make decisions in accordance with the formalized roles, routines and rules prescribed by their organization and/or unit. When asked to describe his role, one RME official succinctly put it like this:

*'I would probably call us, including myself, bureaucrats who provide professional advice / assessments to the Ministry. The bureaucrat terminology describes well what most of us are and do. Individually, each of us is an expert in his/her own field but we solve issues collectively, as a department'.*

All interviewed RME officials also stressed the importance of the administrative rules and proper procedures of their organizational unit for their day-to-day operations. Within RME, task coordination and administrative decision-making are subject to rules and procedural specifications provided by the organization and by the external administrative jurisdiction. Rules and procedural specifications guide the behavior of RME officials in dealings with situations which they encounter. In particular, internal procedures specify internal case processing routines, and interaction and coordination patterns between RME and NVE officials. Interaction with the Ministry is minimized, and only relevant for the so-called 'look into the future' cases which aim primarily to foresee the development of the energy market and plan for the national adaptation strategy. When it comes to the individual case processing, RME acts independently from the Ministry.

The locus of decision-making is pre-structured by the organization, making it into a very formal process. All proposals, assessments and/or reports prepared by individual professionals have to be approved by a section manager, or, which is often also a case, by all section managers in a management meeting. In some cases, proposals have to be approved by the director of NVE. This system of checks along with the formal structure turns RME into a highly centralized agency.

Furthermore, the work of the RME professionals is subjected to the eternal administrative jurisdiction. The decision-making areas themselves are strictly regulated through ‘Regulation of grid operations and energy market’ (NEM). NEM regulates RMEs tasks and authority, and aims to make the division of responsibilities between RME and the Ministry as transparent as possible. One interviewee puts it like this:

*‘NEM makes it clearer who is responsible for what. Formally, we have become more independent but only in very limited areas specified in the NEM. In these areas, RME have in general become more influential.’*

Hence, the legal mandate, internal rules and procedural routines have a strong impact on the internal behavior dynamics within RME and serve as the major value-premise for administrative decision-making.

As to the third, supranational role, this study did not find confirmation for that this role occupies strong position in the hierarchy of salience among RME officials. When reflecting on one’s role in connection with participation in the European networks, officials stress the importance of the professional expertise and access to a large professional environment. ‘Issues that are discussed in the committees and working groups are of complicated nature and require professional expertise. One can quickly get lost in the discussions if one is not technically prepared. One cannot keep up’. ‘It is important for us to use these arenas because here we have an opportunity to both influence and learn how different countries in the EU solve their problems’.

The interview data also suggest that RME officials are also aware of their role as a representative for national interests and concerns when participating in the networks. ‘One of the aims for active participation in regional and European regulatory cooperation is to represent and safeguard Norwegian interests’. ‘We actively participate in this collaboration to ensure that the choices made take care of the Norwegian needs’. In 2019 RME spent large resources to influence the development of the European regulations of considerable consequences for Norway. The agency has worked extensively with the new network codes, coordinated implementation of a new Nordic concept for electricity balancing and led the European working group for balancing the power grid in Europe in ACER. Another important focus area for RME has been the development of new regulations on capacity allocation and congestion management that have been adopted in the EU. RME has worked to influence the design of

these regulations at EU level, and to identify the need for changes in the existing national regulations.

Even though none of the interviewed official explicitly identified with the norms and values of the supranational role set, the empirical data provides some support for the claim that normative prescriptions of the European context become more salient for officials involved in this context. For instance, one interviewee stressed the positive effect of networks on infusion of the European considerations in the decision-making process and fostering the logic of utilitarian problem-solving.

*'At the European level one has to regulate based on the challenges that are mainly related to the rest of Europe and are not particularly a problem for us. European co-operation is about harmonizing regulations and that means that sometimes one has to harmonize at a lower level than one would do otherwise. But that's how it works'.*

From this, it also follows that European networks are able to craft a degree of community thinking. Being part of the European expert community obliges participants to make compromises in the common interest of the pan-European energy sector policy. This is very much in line with the postulates of the theory about the transformative power of networks.

Furthermore, from the theoretical point of view, the multiple embeddedness of organizational members can lead to role conflicts. This is because normative expectations of different roles or individual's experience of these expectations can be in conflict. For instance, norms and values prevalent within the European cooperative arenas can contradict the existing national norms and values. Or norms and values of the professional communities can contradict with bureaucratic norms and values of the employing organization.

Interviewees were asked to express the extent to which they felt the need to adjust to behavioral logics of different contexts. None of the interviewees expressed that they have experienced conflict or strain between the two highly salient role perceptions – departmental and professional. This can be explained by the fact that normative prescriptions of these role conceptions are not experienced as mutually excluding. Professionalism and bureaucracy are not necessarily in conflict with each other but can be complementary. The order and

predictability provided by bureaucracy may facilitate performance of the professional role (Haga et al 1974 in Stryker & Macke 1987:78). Indeed, as noted by one interviewee:

*‘To be considered professionally correct, all our decisions have to be anchored in the formal rules, routines and procedures’*

The absence of role conflict or strain is also reported by officials who work in the multiple context. There is an overall agreement among interviewees that different ways of doing things in different countries undoubtedly create some challenges but these challenges predominately relate to the methods not the overall goal. One interviewee was convinced that the common goal has a positive effect on elimination of role conflict. This comes clear from the following statement made by one of the interviewees:

*‘The overall goal of the Norwegian energy policy we work under and the overall goal of EU energy policy we work under is the same - it is to contribute to the socially rational energy system. This guides our work and how we think when we solve tasks and approach different issues. Since the objectives of the Third Energy Market Package and Clean Energy Package are compatible with the Norwegian objectives, I do not see any role conflicts.’*

## **CHAPTER FIVE: ANALYSIS**

In this chapter I will analyze data from the empirical research against the theoretical framework presented in chapter 2. In particular, it will be analyzed to what extent the role perceptions and administrative decision-making in the Energy Regulatory Authority (RME) can be explained in terms of the following organizational and social-constructivists variables: structure, location and socialization.

### **5.1 Effect of Organizational Structure**

#### **5.1.1 Horizontal Specialization**

From the organizational perspective, the role perceptions of RME officials in line with the departmental role set can be explained as an effect of the horizontal specialization. The horizontal specialization implies that the activities/tasks within NVE and RME unit itself are segregated according to the principle of purpose and process. The separation of the activities/tasks in separate departments and/or sections within professional agencies mobilizes attention of the organizational members to the goals and concerns of their particular task portfolio, and bias decision-making dynamics inwards towards the organizational unit, where preferences, contact patterns, roles and loyalties are directed towards sectoral portfolio and organizational unit.

Indeed, effect of the horizontal specialization is strongly reflected in the responses of the interviewed RME officials. Reflecting the horizontal division of labour inside RME, the majority of the interviewed officials indicated that their main reference point for decision-making was their task portfolio. This finding is not surprising if we look at the intra-departmental specialization inside RME. Inside RME, tasks are distributed horizontally among five sections based on the principle of function: (1) network regulation, (2) wholesale market, (3) retail market, (4) economic regulation, and (5) energy market law. Each of these sections handles its own task portfolio. Such de-coupling of internal tasks inside RME reduces the amount of options available to individual decision-makers, making it possible for them to adequately formulate and evaluate alternatives, and achieve ‘organizationally rational outcomes in spite of their cognitive limitations’ (Simon 1976 in Fredrickson 1986:281). At the same time, it focuses attention of RME officials on the immediate concerns of their task portfolio and leads to more intense coordination and contact within one’s section. This is much in line with the

reality as it experienced and subjectively represented by the interviewees. Most of them confirm that they primarily collaborate at the sectional level driven to achieve their organizational goals.

In addition to the affiliation to their section, RME officials report that they have affiliation with their department as a whole. The affiliation with the RME department as a whole can also be explained in terms of the horizontal specialization. Within the NVE organization, the separation of roles between RME and other NVE departments is enabled by the functional separation of tasks. The task of the RME department is to handle activities related to energy market monitoring and regulation. The segregation and concentration of regulatory tasks and officials in charge of these tasks in one department bias attention of RME officials to the immediate concerns of their task portfolio and contributes to stronger intradepartmental coordination and contact.

The effect of horizontal specialization on the departmental role formation is reinforced by formalization of rules and working procedures. The interviews suggest that internal rules and procedures provided by the organizational bureaucracy guide the behavior of RME officials in dealings with situations which they encounter. In particular, internal procedures specify internal case processing routines, exchange of information routines, and interaction and coordination patterns between RME and NVE officials. In compliance with these procedures, tasks are mostly coordinated at the section- and departmental-level. Cooperation with other departments inside NVE shall be transparent, and is not related to the matters of individual-case processing. Secondly, the locus of decision-making is pre-structured by the organization, making it into a very formal process. All proposals, assessments and reports prepared by individual professionals have to be approved by the section manager, or, which is often also a case, by all section managers in a leadership meeting. In some cases, proposals have to be approved by the director of NVE. This system of checks along with the formal structure turns RME into a highly formalized and centralized agency. Hence, structural formalization provides a controlling effect on the behavior of RME officials by ensuring that their goals, attention and workflow remain predominately inside their department. As the majority of internal rules and procedures aim to circumvent contact between RME and other parts of the NVE in order not to compromise RMEs regulatory competencies and independence, the structural formalization inevitably reinforces RME official's identification with the departmental role.

Furthermore, the work of the RME professional is subjected to the external or administrative jurisdiction. The RME is created in accordance with the Norwegian constitutional and administrative rules. At the same time as RME's competencies and powers were cut off from the ministerial and parliamentary chain of command, they became more formalized, limited and more strongly anchored in the general sectoral policy framework. The decision-making areas and regulatory competencies themselves are strictly regulated through the 'Regulation of grid operations and energy market' (NEM). NEM regulates RMEs competencies and authority, and aims to make the division of responsibilities between NVE, RME and the Ministry as transparent as possible. Hence, both the internal and external administrative rules impact a great deal of internal behavior dynamics within RME and serve as the major value-premise for administrative decision-making. Which is also confirmed by the interviewed RME officials who stressed the importance of the administrative rules and proper procedures of their immediate organizational bureaucracy but also of the wider context of the national bureaucracy for their day-to-day operations.

The horizontal specialization can also explain identification of RME officials with the professional/expert role. By dividing tasks inside RME according to the principle of process (function), the horizontal specialization facilitates generation of in-house expertise. The separation of activities/tasks inside RME reduces the number of tasks performed by an individual decision-maker. By focusing on their individual task portfolio, RME officials can adequately formulate and evaluate alternatives and become specialists in their particular area of expertise. Indeed, the expertise of RME officials is to a large extent linked to their field or task area. From the interviewees it become apparent that RME officials identify closely with the professional experience that they have acquired during their employment in RME. Through extensive on the job training in how to carry out particular tasks, they have acquired special skills that are of particular importance to the organizational legitimacy and survival.

The professional identification of RME officials may be strengthened through the cooperation at the European level. Since implementation of the Third Energy Market Package, the cooperation between RME and the European network of energy regulators coordinated by ACER has become legally binding and more formalized. RME officials at the management level participate fully in the regulatory and the administrative board, while RME officials at the operational level participate in the preparatory bodies, such as working groups and committees. This network represents a task environment that requires horizontal coordination among expert



bodies for effective problem-solving. Both NRAs, TSOs, and ACER have their own roles in this cooperation. The cooperation goes along functional lines and is devoted to the functional problems of the sector. The similarity of functional problems in the energy markets experienced by each individual country encourages cooperation across national borders. Strong degree of functional interdependence among the actors creates common framework of meaning.

RME officials who participate in the working groups and committees see themselves primarily as experts. One of their important tasks in this arena is to provide professional advice. When reflecting on one's role in connection with participation in the European networks, officials emphasize the importance of the professional expertise and access to large professional environment. RME officials see networks as competence enhancing arenas where they can acquire new and/or validate existing knowledge in the domain of their expertise. The networks are also viewed as opportunity structures where RME officials use their expertise to influence the development of the sector and new sector regulations at the EU level. Overall, the European networks of experts represent an important professional reference point for officials in RME. Hence, exchange of information and expertise between professional groups of RME and professional networks reinforces the role of independent expertise and professionalism.

## **5.2 Vertical Specialization**

Strong identification of RME officials with the professional role can also be explained as an effect of the *inter-organizational vertical specialization* at the national level. In Norway, structural separation of the professional agencies from their parent Ministries has been a central feature of the organization of the national administration since late 1800s. Already then, concentration of the professional administration in the agencies operating at the arm's length from their parent Ministries has been a popular doctrine. Since 1990s, the doctrine of structural separation has been reinforced by the ideals of the New Public Management reforms. The aim of the structural separation has been to make the agencies more professional and politically neutral in the policy implementation process.

The inter-organizational vertical specialization at the nation level implies that the Norwegian Water Resources and Energy Agency (NVE) is structurally separated from the Ministry of Petroleum and Energy (MEP). In practice, NVE have been operating at arm's length from the MEP since its establishment in 1921. For the last one hundred years, NVE have managed and issued energy sector regulations based on the delegated authority from the Ministry. The

subjugation of this collegial institution to the Ministry's management board has been an important prerequisite for its delegated authority. The formalized division of tasks between this professional agency and the Ministry as a political institution ensures clearer role distinction between these two institutions. Hence, the inter-organizational vertical specialization between the Ministry and NVE allows NVE officials to focus on their profession, acquire good knowledge of the field (expertise) and one's organization. Structurally enabled de-politicization of the policy implementation allows NVE to cultivate the professional (expertise based) decision-making. The overall complexity of the energy sector and the administrative agency that is created to manage it, reinforces the general belief in the power of expertise and turns NVE professionals into a most needed specialists for the Ministry.

The commitment to make the distinction between the profession and politics more palpable has been taken one-step further with the formalization of RME as a single regulatory authority, legally distinct and functionally independent from the Ministry and any other public institution. RME has been created as a separate and distinct entity from the Ministry and NVE. The agency has been assigned individual (regulatory) tasks, decision-making competences, annual budget allocation and personnel who cannot engage with other activities inside the NVE while holding a position in the RME. The ministerial authority to review, suspend or veto RME's decisions has been withdrawn. All complaints on the individual decisions made by the regulatory authority can only be lodged to the Energy Board of Appeal. Today, RME's independence can be best understood as its legal and functional independence from the Ministry in performance of the individual (regulatory) tasks, assigned authority and use of allocated budget funds within the policy framework provided by national laws, regulations and guidelines. RME's competencies and powers have been more specialized, formalized, and more strongly anchored in the general policy framework for the sector.

Reflecting the effect of inter-organizational vertical specialization, all interviewed RME officials see the main role and purpose of the agency to be technical/professional. RME and its experts are here to solve the practical/technical questions related to the functioning of the energy market, not the political questions. The political decisions on questions like 'how much nature is to be developed for wind power or hydropower?' or 'how many international cables shall be built?' are made outside the box in which RME operates. Once these decisions are made at the political level, RME ensures their sound implementation. Hence, when preparing reports/assessment and/or regulatory proposals RME officials are primarily guided by the

professional considerations. Individual decision-making where RME has a decision-making power is guided by ideals of transparency, neutrality, objectivity and equal treatment of the parties. Concomitantly, RME officials recognize that they are part of the larger political apparatus. Operation in this context requires good understanding of the political framework. The political framework is a good indicator for regulatory solutions / proposals that are viable from the political point of view. This indicates that RME decision-making behavior is not completely deprived of the political considerations.

From the organizational perspective, the *intra-organizational vertical specialization*, which designates the official's formal position within organizational hierarchy, can have implications for their decision-making behavior. As a rule, individuals in the managerial positions are exposed to greater interaction and information flows across organizational levels and units. Individuals in these positions are more likely to identify more strongly with the overall goals of the national administration and be more sensitive to signals from the political leadership than the officials at the operational level. Hence, they are more likely to bring a broader set of the considerations in the decision-making process, including the political ones. On the other hand, a relative degree of insulation from the political leadership and stronger embeddedness into the EU networks of the officials at the operational level could make these officials more sensitive to impulses from the EU level, hence bring more European interests in the decision-making process.

The empirical data collected in this study demonstrates that RME officials at the operation level are indeed more embedded into the European networks than their immediate supervisors. Within RME, this separation of tasks is seen as natural and self-evident because of the nature of the work performed in the networks. Those who work with the professional issues are involved and participate in the relevant working groups, task force, working streams at the European level. This is done because issues discussed in these groups are professionally complicated issues that need similar expertise. The networks are used as a competence enhancing arenas where RME officials can learn how different countries in the EU solve their problems, and as an opportunity structures where RME officials can influence the outcomes of the important policy processes at the EU level. The interviewees involved in or with previous experience of working in the context of European networks report higher levels of exposure to the normative prescriptions of this context. Networking at the European level requires one to make compromises in the common interest of the pan-European energy sector policy. Often it means that RME officials

have to modify how they think about and perform regulatory work at the national level. For instance, the currently popular network code development at the European level aims at more detailed regulation of the sector actors than it traditionally was the case in Norway. These considerations can be a matter of technicality but still they become part and parcel of RMEs decision-making logic. Unfortunately, the empirical material of this research does not allow assessing the extent of this Europeanization effect.

Furthermore, the empirical data demonstrates that there is no substantial difference in the way the high-ranked and low-ranked officials inside RME perceive the individual and organizational decision-making. All three interviewees indicated that RME's final decisions could be better described as an amalgam of different considerations, a trade-off between several conflicting interests – professional and political. Overall, the empirical data suggests that at the individual level, officials rely on their technical expertise and expertise of their colleagues when making decisions and/or preparing proposals for change of regulations. However, as soon as these decisions are brought to the departmental level, they can be modified and supplemented by wider set of considerations. This is not surprising given the degree of formalization of the decision-making process inside RME. Internally, all proposals / assessments / reports prepared by individual professionals have to be approved by the section manager, or, which is often also a case, by all section managers in a management meeting. This procedure assures that interests of all sections within RME are represented. In some cases, regulatory proposals have to be approved by the director of NVE.

### **5.3 Effect of Organizational Location**

This study also tried to assess whether RMEs location can be an explanatory factor for the role perceptions and decision-making behavior of RME officials. The organizational location alike organizational structure creates boundaries that focus the attention of individual decision-makers and help them to cope with complex reality. The geographical or physical distance between the Ministry and the professional agency can have a positive effect on the autonomy, legitimacy and professionalism of the later.

Hence, the identification of RME officials with the professional role can also be explained as an effect of RMEs location. The RME forms part of the state's administrative apparatus but it is structurally separated from the Ministry. The RME shares offices with NVE in Oslo. When

deciding on RME's location, the political-administrative leadership has chosen to keep RME within the professional network of NVE. The decision to not relocate RME from the main office of NVE in Oslo to a regional office was justified in terms of the benefit the co-location of professional groups could bring to efficiency and goal achievement, and the legitimacy of the regulator. To work and be part of the large professional environment gathered under the roof of NVE's head office in Oslo has undoubtedly a strong normative and psychological effect on everybody who walks in and out this office, let alone officials who work in that building on a daily basis. Indeed, several interviewees confirmed the importance of the professional community in which they were part of. Task interdependencies necessitate close cooperation and exchange of information between RME and other departments inside NVE. This complementary exchange of information and expertise between professional groups of RME and NVE reinforces the role of independent expertise and professionalism.

From the perspective of the organizational location, the co-location of RME and NVE could compromise impartiality of RME's decisions. As a regulatory agency, RME shall be able to make their decisions based on the objective criteria and methodologies. The co-location is expected to encourage higher degrees of interdepartmental contact and coordination, facilitating extra sensitivity for the interests, preferences and signals from the main organization in the decision-making process. When reflecting on the decision-making inside RME in general, all interviewees stress its compromise-based nature where final decisions represent a trade-off between different interests. They also report that some decisions are still made at the level of NVE. Hence, there is a reason to believe that co-location of RME and NVE help to maintain the hierarchical link between these two institutions.

The co-location of RME inside another public agency subjugated to the Ministry also attracts the attention from the European institutions. According to the Commission's services, sharing of personnel and sharing of offices between the NRA and any other public body is, in principle, not in line with Article 35(4)(a) of the Electricity Directive and Article 39(4)(a) of the Gas Directive. From the perspective of the national political-administrative leadership, the co-location does not seem as a problem as long as all internal and external collaboration between RME, NVE and the Ministry is formalized. From the interviews it follows that the RME officials collaborate actively with other parts of NVE on the complicated technical tasks that require involvement of several disciplines. This collaboration is framed by the internal

procedures to prevent that NVE and RME encroach on each other's competencies. The same level of formalization is applicable for contact between the Ministry and RME. For cases where RME have been granted the decision-making authority the contact between RME and the Ministry is eliminated altogether. Hence, formalization of rules and processes may help to achieve the same effect as physical distancing of the institutions. However, one can argue that only the relocation of RME to a regional office could significantly reduce the currently frequent informal contact between RME, NVE, central authorities, politicians and supervised entities. Physical relocation could have made it easier to trace the trade-offs between the professional and political considerations, hence it could have increased the overall autonomy and legitimacy of RME's decisions.

From the perspective of the organizational location, the co-location of RME and NVE could have a controlling effect on the development of the RME's distinctiveness, its agency-like identity. The separation of the professional agencies from the Ministries in physical space has been driven by the conviction on the part of the political-administrative leadership that such separation would increase the autonomy of these institutions from the political leadership. The same argument was used when in 2003 the political-administrative leadership started to plan the physical relocation of the regulatory functions from the professional agencies. Such relocation, it was argued, would contribute to more professionalization and legitimization of the regulatory function, at the same time as it would allow regulatory bodies to acquire more distinctive organizational profile. There is a reason to believe that co-location of RME and NVE slows down this process as co-location tends to encourage continuation of traditional patterns of behavior.

The empirical data collected in this study indicates that RME officials have strong identification with their departmental unit. This finding can be explained in terms of the formalization of RME's structure and processes. In particular, the formalization of the organizational rules and procedures that guide the cooperation between officials inside RME and NVE aim to significantly minimize formal contact and coordination between these two entities. As some contact and exchange of information is still inevitable due to some task interdependencies, this contact is strictly regulated to ensure its transparency. The interviewed officials indicated that they had to follow separate procedures for decision-making routines and interaction patterns between RME and NVE. Officials in the various units under NVE's director cannot work in both RME and other departments, and RME shall itself have the competence to carry out the

tasks and fulfill the responsibility emanating from the Third Energy Market Package. This interdepartmental immobility and formalization of case processing and decision-making routines encourage more intradepartmental contact and coordination, and identification with the departmental unit. Following this line of reasoning one can say that formalization of organizational activities and/or communication flows play a much greater role in shaping organizational contact patterns than the organizational location per se.

#### **5.4 Effect of Socialization**

The last effect that was assessed in this study is the effect of socialization on role perceptions and administrative decision-making behavior of RME officials. In line with the theoretical propositions, the institutional and social contexts embedding actors have some fundamental implications for the behavior, identities and roles enacted by these actors. The effect of socialization is positively associated with the duration and the intensity of interaction/contact among actors, and/or exposure to certain ideational factors such as culture, norms and ideas.

From the perspective of organizational socialization, RME official's identification with the departmental/bureaucratic and professional role can be explained in terms of a long process of socialization within the national government bureaucracy. It is a result of the intensive and protracted exposure of RME officials to the people, norms and values of their organizational unit but also the wider context of national administration as a whole. As a state administrative body, the RME agency is situated within a larger context of the highly institutionalized government bureaucracy. Being a product of a long evolutionary process at the national level, formed by national history, culture, and social characteristics, RME subsumes national political and administrative cultures and beliefs.

Indeed, RME is created and operates under the external administrative jurisdiction. RME's competencies, duties and responsibilities are strongly anchored in the general sectoral policy framework with concomitant detailed regulations and guidelines specific for RME operations. All interviewees stress the importance of the national policy framework, regulations and guidelines under which they operate for the organizational decision-making. This framework serves as a source of political signals that RME officials utilize to frame their decisions so that these can be politically accepted. Hence, the national administrative jurisdiction serves as a strong source of practical and normative guidance for RME officials. Moreover, the interviews also demonstrate that the norms and values of their 'national bureaucracy' guide their behavior

during participation in the networks. They pay attention to the national concerns and needs. ‘One of the aims for active participation in regional and European regulatory cooperation is to represent and safeguard Norwegian interests’. Hence, the Norwegian sector policy framework function as a strong normative element which prescribes bounds of behavior for RME officials.

On the other hand, RME is a specialized regulatory agency with specific task and competencies. It is stuffed by experts responsible for efficient regulation of the electricity and gas market. Norms and values associated with scientific knowledge and technical expertise play an important role inside the agency. The empirical data demonstrates that RME officials spend most of their time and energy in their organizational unit. Most obligations, expectations, and information networks are connected to the institution that employ them. The majority of interviewed officials see their colleagues as the most important and influential source of reference. This is not surprising, given the collegial nature of the agency. Most tasks are solved collectively through a lot of intradepartmental contact and cooperation. This intensive intradepartmental collaboration is undoubtedly an important source for production and reproduction of meaning and/or accepted patterns of behavior inside RME. This finds its resonance in the importance RME officials assign to the intradepartmental and interdepartmental processes and routines. Being part of the bureaucratic administration implies abiding by its rules, norms and values, which is experienced as natural and normal by all interviewees.

From the perspective of organizational socialization, RME officials with regular and/or sustained contact with actors within European network of energy regulators would identify more strongly with the epistemic role conception and/or supranational role conception than officials without regular or sustained contact within this context. This is due to stronger exposure to norms and values of the network, in particular norms of professionalism, neutrality and independence, as well as the culture of compromise that permeates these collegial arrangements. When reflecting on their role in connection to participation in the European networks, RME officials stress the importance of the professional expertise and access to a large professional environment. Overall, they find participation rewarding because it provides access to new information and experience, as well as the possibility to influence. Concomitantly, they stress the positive effect of networks on the infusion of the European considerations in the decision-making process and fostering the logic of utilitarian problem-solving through compromise. European networks are indeed able to create a degree of



community thinking between its participants. This indicates that participation in the networks provides RME officials with extra reference points, and exposes them to new normative expectations.

However, based on the empirical evidence in this study there is no reason to conclude that RME officials with intensive interaction in the European networks are more Europeanized than their colleagues without such exposure. The study did not find any conclusive evidence for the existence of the supranational role orientation in the repertoire of roles of RME officials.

One of the explanations for this can be that this study failed to capture RME officials with intensive involvements in this context to verify the socialization effect properly. The relative stability of the national bureaucratic role can be another explanation. As national bureaucratic roles represent a product of a long evolutionary process, they can be resilient to change. The socialization processes are slow. It takes time for the new meanings and norms to be internalized and exert lasting impact on the way national actors perceive themselves. The fact that RME officials participating in the collegial bodies are to a large extent part-timers as far as their group work is concerned has important implications for their role perceptions. There are periods with a lot of contact and cooperation among the network actors, especially when a new network code is to be developed or a new legislation is to be reviewed and implemented, but also periods with less contact and cooperation. Under such circumstances, it is likely that the bureaucratic units to which officials belong on a regular basis will continue to prevail as their main reference point.

## **CHAPTER SIX: CONCLUSION**

A growing number of studies indicate that increased incorporation of national regulatory agencies into the multi-level administrative structures of EU transforms existing patterns of administrative behavior in these institutions. In particular, the traditional, more local patterns of behavior seem to be supplemented and/or replaced by the supranational behavioral logics. The main purpose of this research was to assess if embeddedness of the Norwegian Energy Regulatory Authority (RME) in the EU network of energy regulators affects administrative behavior of the agency. For this purpose, role perceptions of individual officials inside RME were studied.

The empirical findings of this study suggest that administrative behavior of RME officials are located on the functional expert – bureaucrat dimension. This is very much in line with the traditional role conception of the ‘national bureaucracy’ which epitomizes the traditional split between the political institution and its administration. This study did not find confirmation for the salience of the supranational role in the hierarchy of salience of RME officials. Being embedded in the European network of energy regulators, RME officials demonstrate sensitivity towards normative prescriptions of this context, however, they do not demonstrate complete allegiance to the supranational level.

This study has also assessed to what extent the administrative behavior of RME officials can be explained in terms of the effect of the organizational structure, organizational location and socialization. The empirical data suggests that role perceptions and behavior of RME officials are systematically shaped by the organizational structure of their organizational bureaucracy. In particular, the horizontal specialization of the RME agency along functional lines yields the strongest effect on the formation of the departmental role among RME officials. Concomitantly, the inter-organizational vertical specialization whereby the RME is legally and structurally separated from the Ministry yields the strongest effect on the formation of the professional/expert role among RME officials.

The above indicates that the traditional patterns of behavior can be quite stable and resilient to change as they are systematically produced and reproduced by the traditional cultures and institutions. The RME agency is created in accordance with constitutional and administrative rules of its nation state. It has been granted legal and functional independence from the Ministry

and NVE in performance of the individual (regulatory) tasks, assigned authority and use of allocated budget funds within the framework provided by laws, regulations and guidelines. The national sector policy framework continues to serve as a strong source of normative guidance for RME officials that sets the bounds of their administrative behavior.

When interpreting these findings, one should keep in mind that the sample in this research is small and has a bias. This research draws inferences from individual observations to collective actors, from individual employee's role perceptions to the administrative behavior of the agency. However, given the low number of respondents in this study, one should make any such inference with caution. The sample has also one significant drawback, it lacks RME officials with *active* involvement in the European networks. Due to such bias in the sample, the conclusions regarding the supranational role orientations must be taken with a bit of salt. Hence, the results could have been different if more officials could contribute to this study.

Looking forward, it could be interesting to conduct a comparative study of the energy regulatory authorities across Europe. Such studies could help to illuminate if there were significant differences in the way different European countries had organized their energy regulators to meet the independence requirement of the European Union in the context of energy sector. A separate study of the Ministry and NVE could be desirable to assess if any adaptations (new competencies, roles) have been made in these institutions to adjust to the independent regulatory authority. However, what is probably more important is to try to conduct a new research of the Energy Regulatory Authority at a later stage to be able to trace its development over time. The organization and competencies as currently delegated to RME by the Ministry has already attracted scrutiny from the European level. It remains to be seen what path RME's organization, localization and competencies will follow in the future.

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## OFFICIAL DOCUMENTS:

Document Number	Title	Data analyzed
FOR-2019-10-24-1413	Forskrift om netregulering og energimarkedet (NEM) Regulation of grid operations and energy market	Role, regulatory competencies and decision-making authority of RME
Directive 2003/54/EC	Concerning Common Rules for the Internal Market in Electricity and Repealing Directive 1996/92/EC	Role, duties and responsibilities of NRAs
Directive 2009/72/EC	Concerning Common Rules for the Internal Market in Electricity and repealing Directive 2003/54/EC	
Directive 2009/73/EC	Concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC	
Commission Staff Working Paper of 22 January 2010	Interpretative Note on Directive 2009/72/EC Concerning Common Rules for the Internal Market in Electricity and Directive 2009/73/EC Concerning Common Rules for the Internal Markets in natural Gas	
Treaty 2012/C 326/01	Treaty on European Union and the Treaty on the Functioning of the European Union. Consolidated version.	
Regulation (EC) No 713/2009	On establishing an Agency for the Cooperation of Energy regulators	Role, duties and responsibilities of ACER
Regulation (EC) No 714/2009	On conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003	Competencies of EU in the field of energy. detailed regulations for market design, network connection and system responsibility.
LOV-2002-06-28-61	Lov om felles regler for det indre marked for naturgass (naturgassloven)  The Natural Gas Act	Role, regulatory competencies and decision-making authority of RME in the field of natural gas
LOV-1990-06-29-50	Lov om produksjon, omforming, overføring, omsetning, fordeling og bruk av energi m.m. (energiloven)  The Energy Act	Role, regulatory competencies and decision-making authority of RME in the field of electricity
Innst. 175 L (2017 - 2018)	Innstilling til Stortinget fra Energi-og Miljøkomiteen	Role, regulatory competencies and decision-making authority of RME
Prop. 5L (2017-2018)	Endringer i energiloven (tredje energimarkedspakke)  Proposed changes to the Energy Act	
Prop. 6 L (2017-2018)	Endringer i naturgassloven (tredje energimarkedspakke)  Proposed changes to the Natural Gas Act	
Pressemelding Nr.039/17	Utredning av utflytting av tilsynsoppgavene i Norges vassdrags- og energidirektorat  Assessment of the relocation of the supervisory tasks in the Norwegian Water Resources and Energy Agency	RME's location

NA	Supplerende tildelingsbrev til Norges vassdrags- og energidirektorat for 2020 - Reguleringsmyndigheten for energi  Supplemental letter of allocation to the Norwegian Water Resources and Energy Agency for 2020 – The Energy Regulatory Authority	RMEs financial framework, goals, and reporting requirements.
EU/EØS-nytt - 4. november 2020 – ESA letter to the Ministry	ESA stiller spørsmål om uavhengigheten til RME  ESA Questions RME's Independence	RME's organization and competencies
NVE Rapport 11/2020	Årsrapport 2019 – NVE  Annual Report 2019 - NVE	RME's reported accomplishments

## WEBPAGES:

Webpage - Europalov

<https://www.europalov.no>

Webpage - Factsheets on the European Union (Internal energy market)

<https://www.europarl.europa.eu/factsheets/en/sheet/45/internal-energy-market>

Webpage – Energi Fakta Norge

<https://energifaktanorge.no/en/norsk-energiforsyning/kraftnett/>

Webpage - The Energy Regulatory Authority

<https://www.nve.no/reguleringsmyndigheten/>

Webpage – Statnett SF

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Webpage – ENTSO-E

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<https://www.stortinget.no/no/Hva-skjer-pa-Stortinget/EU-EOS-informasjon/EU-EOS-nytt/2020/eueos-nytt---4.-november-2020/esa-stiller-sporsmal-om-uavhengigheten-til-rme/>

## APPENDIX 1 - INTERVJUGUIDE

### Intervjuguide

#### Generell Informasjon

Vennligst fortell litt om din bakgrunn (*tjenestetid, arbeidserfaring*)

#### Aktivitet og kontaktmønstre

1. Vennligst beskriv din arbeidsdag
  - arbeidsoppgaver
  - hvor mye av arbeidsdagen går ut på samhandling med NVE / ACER / Europeisk Transnasjonal Energi nettverk? (*inkludert møter, epost, telefonsamtaler*)
  - frekvens på fysiske møter med NVE/ACER/andre aktører i energi reguleringsnettverket?
  - hvilke hensyn vektlegges når skjønn utøves i ditt daglige arbeid? (*hensynet til egen avdeling, faglige / profesjonelle hensyn, departementet, EU-byrå innenfor eget saksområde*)
2. I hvilken grad koordineres arbeidet med ulike organer (NVE, departementet, det transnasjonale nettverk, ACER)?
3. Hvilke institusjoner (NVE, departementet, transnasjonale nettverk, ACER) oppfatter du som mest innflytelsesrike med hensyn til ditt/regulator arbeid?
4. Fører deltagelse i nettverket til utvikling av felles oppfatninger av hvilke løsninger som er gode/dårlige?
5. Fører deltagelse i nettverket til utvikling av tillitsrelasjoner?
6. Hva ser du som organisasjonens hovedoppgaver og målsettinger?

#### Rolleoppfatninger

1. Hvordan vil du beskrive din rolle?
2. I hvilken grad føler du at du må tilpasse deg til forskjellige atferds logikker i forskjellige fora (NVE, departementet, ACER, transnasjonale nettverk)?
3. Vil du si at forskjellige fora (NVE, departementet, ACER, det transnasjonale nettverk) fører til rollekonflikter?

**FIGURES**

**Figure 1: Organizational Structure - NVE**

ORGANIZATIONAL STRUCTURE OF NVE  
01.11.2019

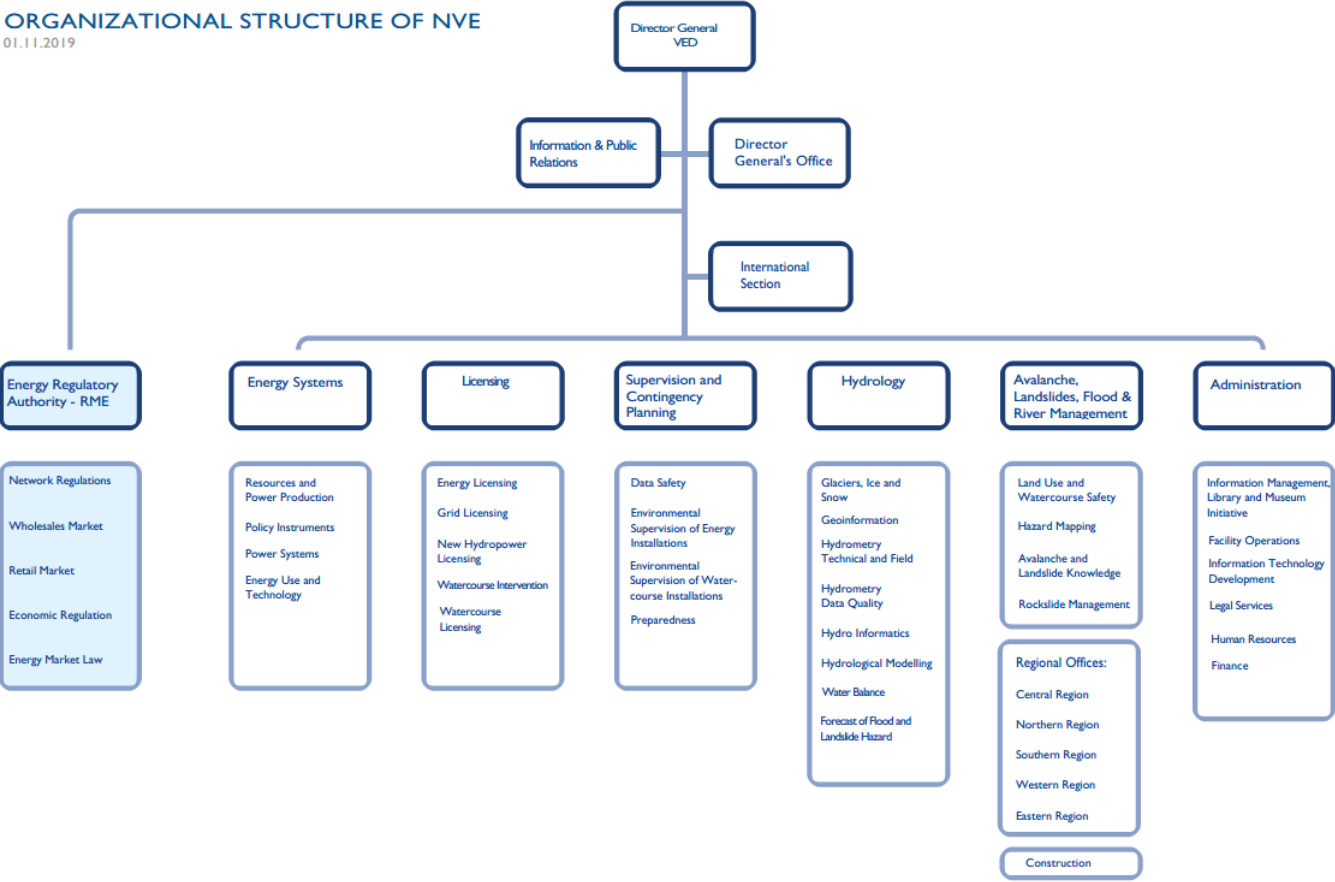


Figure 2: The Process of Adoption of Guidelines and Network Codes in the EU

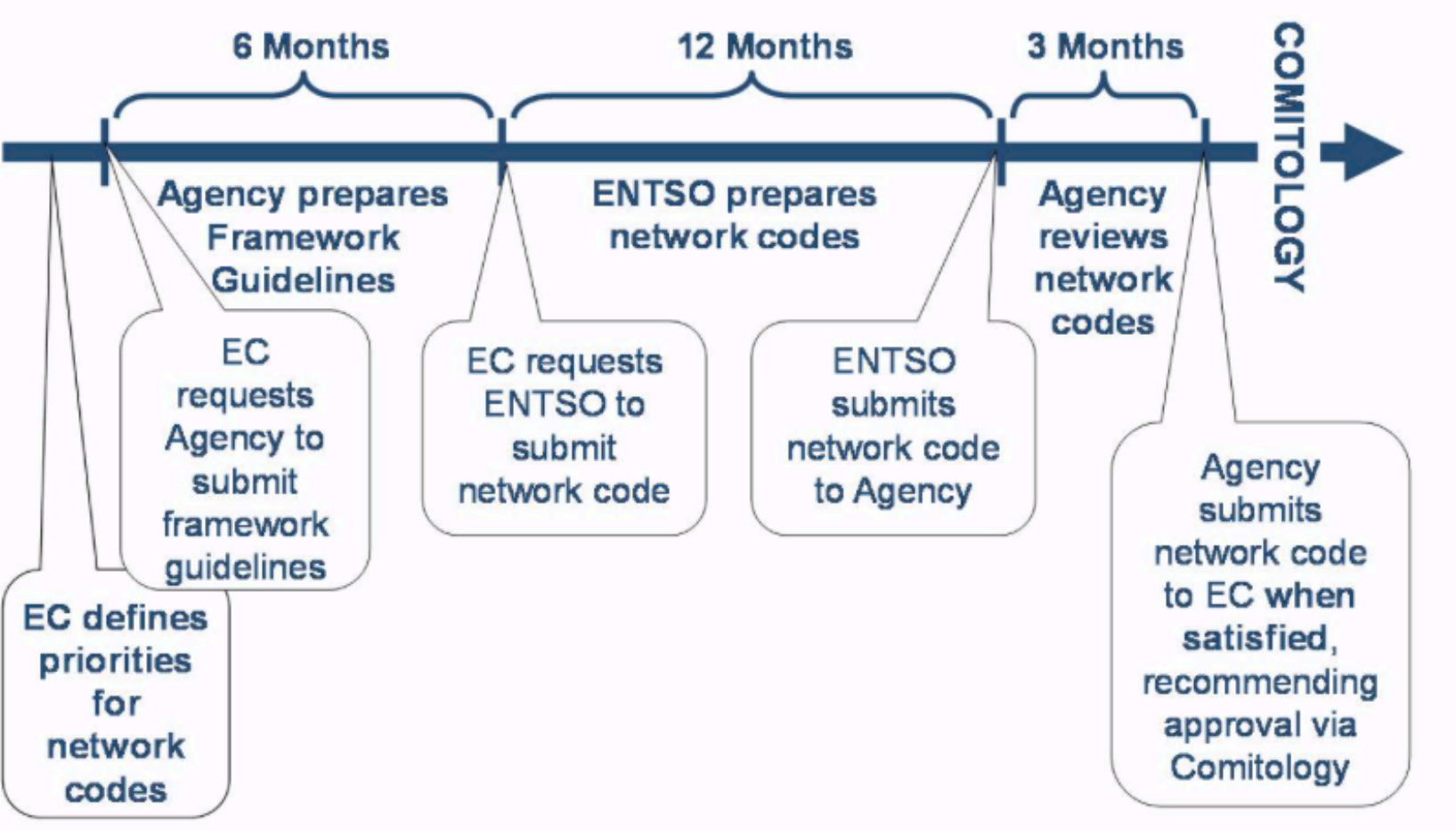
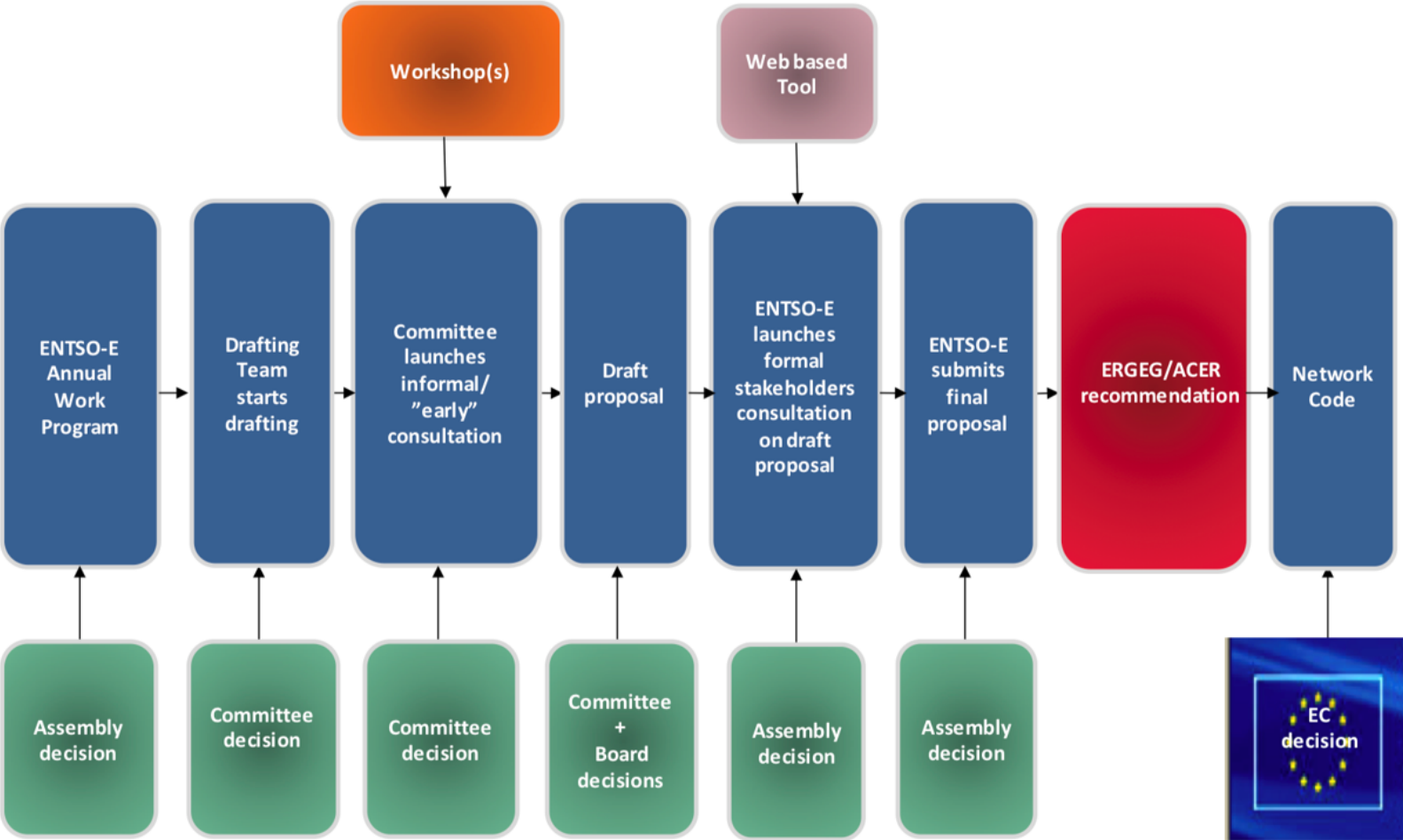
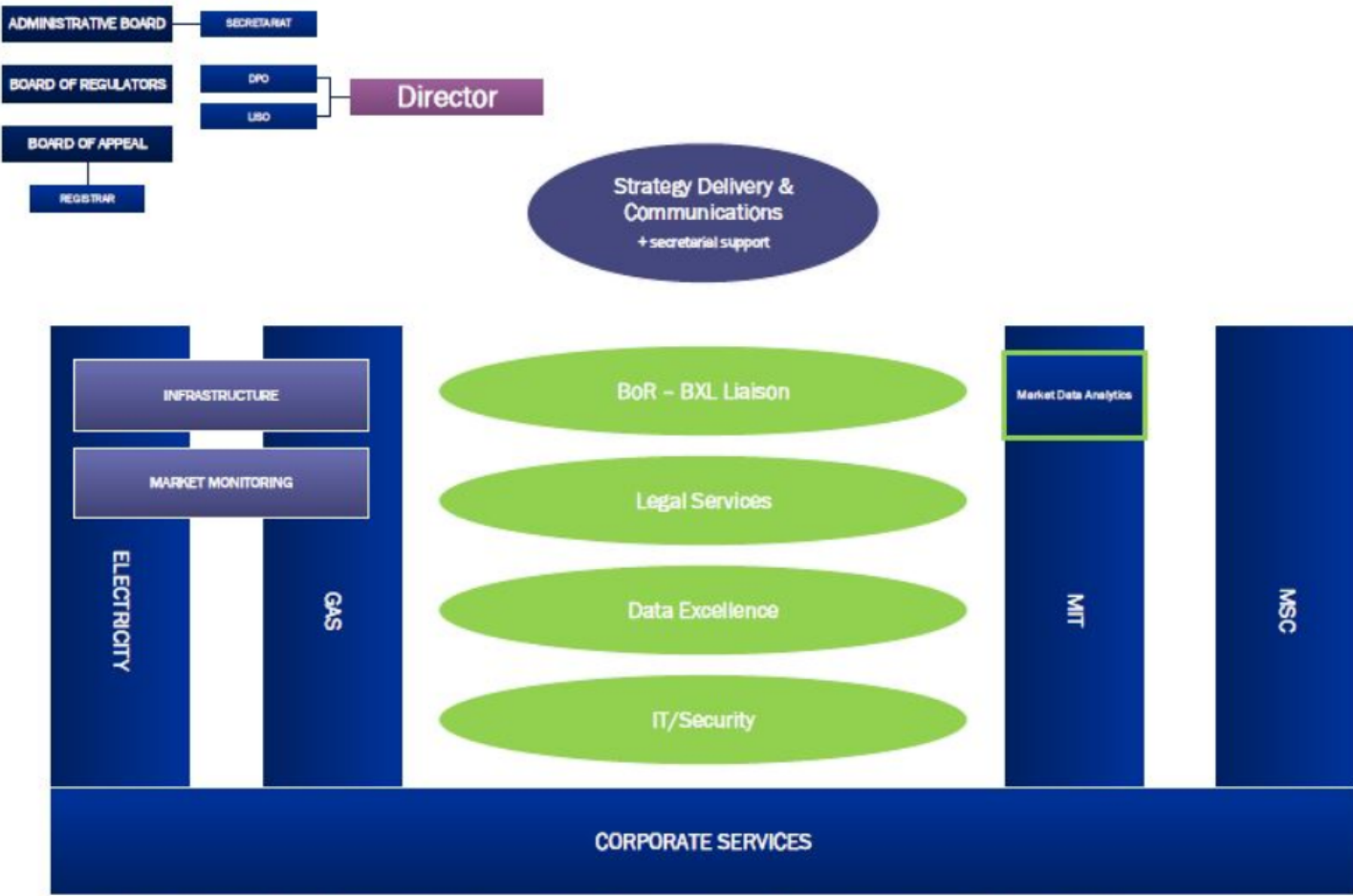


Figure 3: Network Codes initiated following a request addressed to ENTSO by the EC

**Figure 3: Network Code Development Procedure (initiated following a request addressed to ENTSO by the EC)**



**Figure 4: ACER Organization**



\*Strategy Delivery & Communications, BXL Liaison Office and Legal Services are administratively under the Director, Data Excellence is under MIT and IT/Security under Corporate services.